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Rules and Regulations

Federal Register
Vol. 66, No. 102
Friday, May 25, 2001

DEPARTMENT OF COMMERCE

International Trade Administration

DEPARTMENT OF THE TREASURY

Customs Service

15 CFR Part 301

[Docket No. 000331091–0177–02]

RIN 0625–AA47

Changes in Procedures for Florence Agreement Program

AGENCIES: Import Administration, International Trade Administration, Department of Commerce; U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The International Trade Administration and U.S. Court of Law amended the regulations which govern duty-free entry of scientific instruments and apparatus, by educational and nonprofit institutions, into the United States. The amendments make the technical changes required by the Omnibus Trade and Competitiveness Act of 1988 and by the Miscellaneous Trade and Technical Corrections Act of 1999. In addition this rule revises the regulations to specify the correct court of review, to use terminology consistent with accepted metric units, to extend the waiver for repair components to maintenance tools as well, to simplify and clarify the regulations for applicants by clarifying the commercial use provisions and by removing redundant requirements, to add information about procedures for obtaining duty refunds, to reduce the number of copies required for resubmitted applications and to permit performance data obtained in tests or trials as evidence of guaranteed specifications.

EFFECTIVE DATE: June 25, 2001.

ADDRESSES: Send comments regarding the reporting burden estimate or any other aspect of the collection-of-information requirements in this final rule, including suggestions for reducing the burden, to U.S. Department of Commerce, ITA Information Officer, Washington, DC 20230 and Office of Information and Regulations Officer, Office of Management and Budget, Washington, DC 20503 (Attn: OMB Desk Officer).

FOR FURTHER INFORMATION CONTACT: Gerald Zerdy, (202) 482–1660.

SUPPLEMENTARY INFORMATION: The International Trade Administration of the Department of Commerce and the U.S. Customs Service of the Department of the Treasury: amend Part 301, Chapter III, Subtitle B of Title 15 of the Code of Federal Regulations relating to their responsibilities under the Educational, Scientific, and Cultural Materials Importation Act of 1966 (the ''Act''; Pub. L. 89–651; 80 Stat. 897).

The rule makes the necessary technical changes to reflect the conversion from the Tariff Schedule of the United States (TSUS) to the Harmonized Tariff Schedule of the United States (HTSUS); and the modification made by Proclamation 5978 of May 12, 1989, which was issued pursuant to sections 1121 and 1204 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–418) and section 604 of the Trade Act of 1974 (Pub. L. 93–618), as amended; and the statutory amendment made by section 2402 of the Miscellaneous Trade and Technical Corrections Act of 1999 (Pub. L. 106–36). The rule makes editorial and administrative changes, including updating terminology.

We have amended § 301.2(h) to provide further information about the entry of accessories for existing instruments.

The rule amends paragraph (r) of § 301.2 to permit performance data obtained from a trial or test run of an instrument, under conditions specified by the applicant, to be used as evidence for a guaranteed specification since this is sometimes stipulated as a condition for purchase or provides the basis for selecting one instrument over another.

The rule removes the language in § 301.4(a)(1) that refers to specific documentation Customs may require to establish the applicant's nonprofit or tax exempt status. The revision leaves the method of this determination to the discretion of Customs.

Section 301.4(a)(3) is amended to further emphasize that an applicant may not participate in the development and evaluation of an instrument, beyond routine acceptance testing and calibration, if substantial benefits accrue to the manufacturer as a result of such participation for which the applicant receives a valuable consideration. This change clarifies the conditions of compliance with the statutory prohibition of commercial use within five years of entry (see § 301.1(c)(1)).

The rule amends § 301.5(a)(1) by making copies of applications available for public inspection within five days of receipt from Customs instead of the ten days currently specified in the regulations.

The rule eliminates § 301.5(a)(7), relating to the routine sending of copies of applications to interested domestic manufacturers. Use of this service has been extremely limited. We will continue to provide copies on a case-by-case basis if requested.

Section 301.5(c)(3) is amended by removing language requesting consultants to provide advice within 30 days. Routine interagency procedures do not require codification. ''National Bureau of Standards'' is replaced by ''National Institute of Standards and Technology.''

To simplify the application process § 301.5(e)(3) is amended to permit resubmissions by facsimile, e-mail or other electronic means in addition to posted mail, and to permit resubmissions with an original copy only instead of in quadruplicate. Section 301.5(e)(5) is amended to conform with this change.

The rule eliminates § 301.5(e)(9), which allows interested parties to comment on resubmitted applications. Interested parties are afforded ample opportunity to comment on the original applications. Also, applicants are not permitted to introduce new purposes or other material changes in a resubmission.

Section 301.8(d) is amended to inform the applicant that estimated duties levied by U.S. Customs at the time of entry may be refundable, and instruct the applicant to contact Customs at the port of entry for information and claims status.

Presidential Proclamation 5978 of May 12, 1989, issued pursuant to sections 1121 and 1204 of the Omnibus Trade and Competitiveness Act of 1988 and section 604 of the Trade Act of 1974, as amended, added maintenance tools for scientific instruments to the list of items eligible for duty-free import under the Act. Accordingly, § 301.10 is amended (a) to add maintenance tools to the scope of the waiver already in place for repair tools.

Classification

Comments on Proposed Rule

No comments were received in response to the notice of proposed rulemaking published for this rule on May 12, 2000 (65 FR 30555). No comments were received on that certification and the basis for it was not changed. Accordingly a Regulatory Flexibility Analysis has not been prepared. The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy, Small Business Administration, when this rule was proposed, that it will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number. Public reporting burden for this collection of information is estimated to average 2 hours per response. This rulemaking involves information collection activities subject to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., which are currently approved by OMB under control number 0625–0037. The amendments will not increase the information burden on the public. Send comments on this burden estimate or any other aspects of the collection of information, including suggestions for reducing the burden, to the U.S. Department of Commerce and to OMB (see **ADDRESSES**).

Plain English

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with this directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this rule (see **ADDRESSES**).

Executive Order 12866

This rulemaking has been determined to be not significant for purposes of Executive Order 12866.

List of Subjects in 15 CFR Part 301

Administrative practice and procedure, Customs duties and inspection, Educational facilities, Imports, Nonprofit organizations, Scientific equipment.

For the reasons set forth in the preamble, 15 CFR part 301 is amended as follows:

PART 301—[AMENDED]

1. The authority citation for part 301 is revised to read as follows:

Authority: Sec. 6(c), Pub. L. 89–651, 80 Stat. 897, 899; Sec. 2402, Pub. L. 106–36, 113 Stat. 127, 168.

2. Amend part 301 as follows:

a. Revise all references to ''tariff item 851.60'', ''item 851.60'', or ''item 851.60, TSUS'' to read ''subheading 9810.00.60, HTSUS''.

b. Revise all references to ''item 851.65'' or ''tariff item 851.65'' to read ''subheading 9810.00.65, HTSUS''.

3. Amend § 301.1 as follows:

a. Amend paragraph (b)(1) by removing '', contracted to by approximately 89 countries'';

b. Revise paragraphs (b)(3), (c)(1) and (c)(2); and

c. Add paragraph (c)(4).

d. Amend paragraph (d) by removing ''Headnote 6, TSUS'' from the first sentence and adding ''U.S. Note 6, Subchapter X, Chapter 98, HTSUS'' in its place; by removing ''and Operations'' in the second sentence; and by removing ''Deputy'' in the third sentence;

§ 301.1 General provisions.

* * * * *

(b) * * *

(3) The Annex D provisions are implemented for U.S. purposes in Subchapter X, Chapter 98, Harmonized Tariff Schedule of the United States (HTSUS).

(c) Summary of statutory procedures and requirements. (1) U.S. Note 1, Subchapter X, Chapter 98, HTSUS, provides, among other things, that articles covered by subheadings 9810.00.60 (scientific instruments and apparatus), 9810.00.65 (repair components therefor) and 9810.00.67 (tools for maintaining and testing the above), HTSUS, must be exclusively for the use of the institutions involved and not for distribution, sale, or other commercial use within five years after entry. These articles may be transferred to another qualified nonprofit institution, but any commercial use within five years of entry shall result in the assessment of applicable duties pursuant to § 301.9(c).

(2) An institution wishing to enter an instrument or apparatus under tariff subheading 9810.00.60, HTSUS, must file an application with the Secretary of the Treasury (U.S. Customs Service) in accordance with the regulations in this section. If the application is made in accordance with the regulations, notice of the application is published in the **Federal Register** to provide an opportunity for interested persons and government agencies to present views. The application is reviewed by the Secretary of Commerce (Director, Statutory Import Programs Staff) , who decides whether or not duty-free entry may be accorded the instrument and publishes the decision in the **Federal Register.** An appeal of the final decision may be filed with the U.S. Court of Appeals for the Federal Circuit, on questions of law only, within 20 days after publication in the **Federal Register.**

* * * * *

(4) Tools specifically designed to be used for the maintenance, checking, gauging or repair of instruments or apparatus admitted under subheadings 9810.00.65 and 9810.00.67, HTSUS, require no application and may be entered duty-free in accordance with the procedures prescribed in § 301.10.

* * * * *

§ 301.2 [Amended]

4. Amend § 301.2 as follows:

a. Amend paragraph (f) by removing ''only'' in the first sentence; by removing ''classifiable under the tariff items specified in headnote 6(a) of part 4 of Schedule 8'' and adding in its place ''specified in U.S. Note 6(a), Subchapter X, Chapter 98, HTSUS''; and by adding the following after the second sentence: ''The term 'instrument' also covers separable components of an instrument that are imported for assembly in the United States in such instrument where that instrument, due to its size, cannot feasibly be imported in its assembled state. The components, as well as the assembled instrument itself, must be classifiable under the tariff provisions listed in U.S. Note 6(a), Subchapter X, Chapter 98, HTSUS. See paragraph (k) of this section and § 301.3(f).'';

b. Revise paragraph (f)(5);

c. Amend paragraph (h) by adding a new sentence to the end of the paragraph to read: ''The existing

instrument, for which the accessory is being purchased, may be domestic or, if foreign, it need not have entered duty free under subheading 9810.00.60, HTSUS.'';

d. Amend paragraph (k) by adding the following at the end of the paragraph: ''The above notwithstanding, separable components of some instruments may be eligible for duty-free treatment. See paragraph (f) of this section.'';

e. Amend paragraph (r) by removing ''angstroms'' in the second sentence and adding ''nanometers'' in its place, and by adding a sentence at the end of the paragraph to read: ''Performance results on a test sample run at the applicant's request may be cited as evidence for or against a guaranteed specification.''; and

f. Amend paragraph(s) by removing ''and/'' from the first sentence, removing the last sentence and adding in its place the following: ''Also, characteristics such as size, weight, appearance, durability, reliability, complexity (or simplicity), ease of operation, ease of maintenance, productivity, versatility, ''state of the art'' design, specific design and compatibility with currently owned or ordered equipment are not pertinent unless the applicant demonstrates that the characteristic is necessary for the accomplishment of its scientific purposes.''

§ 301.2 Definitions

* * * * *

(f) * * *

(5) Instruments initially imported solely for testing or review purposes which were entered under bond under subheading 9813.00.30, HTSUS, subject to the provisions of U.S. Note 1(a), Subchapter XIII, Chapter 98, HTSUS, and must be exported or destroyed within the time period specified in that U.S. Note.

* * * * *

5. Amend § 301.3 as follows:

a. Amend paragraph (d) by removing ''One copy of the form'' from the second sentence and adding in its place ''One of these copies''

b. Redesignate paragraph (f) as paragraph (g); and

c. Add a new paragraph (f).

§ 301.3 Application for duty-free entry of scientific instruments.

* * * * *

(f) An application for components of an instrument to be assembled in the United States as described in § 301.2(f) may be filed provided that all of the components for the complete, assembled instrument are covered by, and fully described in, the application. See also § 301.2(k).

* * * * *

6. In § 301.4, paragraphs (a)(1), (a)(2) and the first two sentences of paragraph (a)(3) are revised and a new third sentence is added to read as follows:

§ 301.4 Processing of applications by the Department of the Treasury (U.S. Customs Service).

(a) * * *

(1) Whether the institution is a nonprofit private or public institution established for research and educational purposes and therefore authorized to import instruments into the U.S. under subheading 9810.00.60, HTSUS. In making this determination, the Commissioner may require applicants to document their eligibility under this paragraph;

(2) Whether the instrument or apparatus falls within the classes of instruments eligible for duty-free entry consideration under subheading 9810.00.60, HTSUS. For eligible classes, see U.S. Note 6(a), Subchapter X, Chapter 98, HTSUS; and

(3) Whether the instrument or apparatus is for the exclusive use of the applicant institution and is not intended to be used for commercial purposes. For the purposes of this section, commercial uses would include, but not necessarily be limited to: Distribution, lease or sale of the instrument by the applicant institution; any use by, or for the primary benefit of, a commercial entity; or use of the instrument for demonstration purposes in return for a fee, price discount or other valuable consideration. Evaluation, modification or testing of the foreign instrument, beyond normal, routine acceptance testing and calibration, to enhance or expand its capabilities primarily to benefit the manufacturer in return for a discount or other valuable consideration, may be considered a commercial benefit. * * *

* * * * *

7. Amend § 301.5 as follows:

a. Amend paragraph (a)(1) by removing ''10'' from the first sentence and adding ''5'' in its place;

b. Amend paragraph (a)(2) by removing ''contained in Question 11 of the form'' in the second sentence and adding ''on the form'' in its place, and by adding ''pursuant to paragraph (e) of this section'' at the end of the last sentence;

c. Amend paragraph (a)(3) by removing the last sentence;

d. Amend paragraph (a)(4)(v) by removing ''submitted a formal'' and adding ''issued an'' in its place;

e. Revise paragraph (a)(5);

f. Amend paragraph (a)(6) by removing ''apprise'' from the first sentence and adding ''inform'' in its place, by removing ''routinely'' from the second sentence, removing ''commentor's'' from the last sentence and adding ''provider's'' in its place, and by removing ''on a particular application'' from the last sentence;

g. Remove paragraph (a)(7);

h. Revise paragraph (b);

i. Amend paragraph (c)(2), by removing the word ''the'' between ''to'' and ''appropriate'' and by removing ''written''

j. Amend paragraph (c)(3) by removing the first sentence, by removing ''may'' from the second sentence, and by removing ''National Bureau of Standards'' and adding ''National Institute of Standards and Technology'' in its place in the second sentence;

k. Amend paragraph (d)(1)(i) by removing ''combines'' from the fourth sentence and adding ''brings together'' in its place, and by removing ''instrument(s)'' in the last sentence and adding ''instrument'' in its place;

l. Amend Paragraph (d)(1)(ii) by removing ''conversion'' from the last sentence and adding ''adaptation'' in its place, and by removing ''for such programs'' from the last sentence;

m. Add a paragraph (d)(5); and

n. Revise paragraphs (e) introductory text; (e)(2) and (e)(3); add two sentences to the end of the paragraph (e)(5); and remove paragraph (e)(9).

§ 301.5 Processing of applications by the Department of Commerce.

(a) * * *

(5) Untimely comments. Comments must be made on a timely basis to ensure their consideration by the Director and the technical consultants, and to preserve the commenting person's right to appeal the Director's decision. The Director, at his discretion, may take into account factual information contained in untimely comments.

* * * * *

(b) Additions to the record. The Director may solicit from the applicant, from foreign or domestic manufacturers, their agents, or any other person or Government agency considered by the Director to have related competence, any additional information the Director considers necessary to make a decision. The Director may attach conditions and time limitations upon the provision of such information and may draw appropriate inferences from a person's failure to provide the requested information.

* * * * *

(d) * * *

(5) Processing of applications for components. (i) The Director may

process an application for components which are to be assembled in the United States into an instrument or apparatus which, due to its size, cannot be imported in its assembled state (see § 301.2(k)) as if it were an application for the assembled instrument. A finding by the Director that no equivalent instrument is being manufactured in the United States shall, subject to paragraph (d)(5)(ii) of this section, qualify all the associated components, provided they are entered within the period established by the Director, taking into account both the scientific needs of the importing institution and the potential for development of related domestic manufacturing capacity. (ii) Notwithstanding a finding under paragraph (d)(5)(i) of this section that no equivalent instrument is being manufactured in the United States, the Director shall disqualify a particular component for duty-free treatment if the Director finds that the component is being manufactured in the United States.

(e) Denial without prejudice to resubmission (DWOP). The Director may, at any stage in the processing of an application by the Department of Commerce, DWOP an application if it contains any deficiency which, in the Director's judgment, prevents a determination on its merits. The Director shall state the deficiencies of the application in the DWOP letter to the applicant.

* * * * *

(2) If granted, extensions of time will generally be limited to 30 days.

(3) Resubmissions must reference the application number of the earlier submission. The resubmission may be made by letter to the Director. The record of a resubmitted application shall include the original submission on file with the Department. Any new material or information contained in a resubmission, which should address the specific deficiencies cited in the DWOP letter, should be clearly labeled and referenced to the applicable question on the application form. The resubmission must be for the instrument covered by the original application unless the DWOP letter specifies to the contrary. The resubmission shall be subject to the certification made on the original application.

* * * * *

(5) * * * Resubmission by fax, e-mail or other electronic means is acceptable provided an appropriate return number or address is provided in the transmittal. Resubmissions must clearly indicate the date of transmittal to the Director.

* * * * *

8. Amend § 301.6 by revising paragraphs (a) and (c) to read as follows:

§ 301.6 Appeals.

(a) An appeal from a final decision made by the Director under § 301.5(f) may be taken in accordance with U.S. Note 6(e), Subchapter X, Chapter 98, HTSUS, only to the U.S. Court of Appeals for the Federal Circuit and only on questions of law, within 20 days after publication of the decision in the **Federal Register.** If at any time while its application is under consideration by the Court of Appeals on an appeal from a finding by the Director an institution cancels an order for the instrument to which the application relates or ceases to have a firm intention to order such instrument, the institution shall promptly notify the court.

* * * * *

(c) Questions regarding appeal procedures should be addressed directly to the U.S. Court of Appeals for the Federal Circuit, Clerk's Office, Washington, DC 20439.

§ 301.7 [Amended]

9. Amend § 301.7 by removing ''(see § 301.6(a))'' from the first sentence of paragraph (a).

10. Amend § 301.8 as follows:

a. Amend paragraph (a)(1) by adding ''(as defined in 19 CFR 101.1)'' after ''Customs territory of the United States'';

b. Amend the second sentence of paragraph (a)(5) by adding the words ''either by delaying importation or by placing the instrument in a bonded warehouse or foreign trade zone,'' after the words ''duty-free entry of the instrument,'';

c. Amend paragraph (b) by removing ''above'' and ''mentioned'' from the first sentence;

d. Amend paragraph (c) by removing ''of § 301.8'' in the first sentence and adding ''of this section''

e. Revise paragraph (d) to read as follows:

§ 301.8 Instructions for entering instruments through U.S. Customs under subheading 9810.00.60, HTSUS.

* * * * *

(d) Payment of duties. The importer of record will be billed for payment of duties when Customs determines that such payment is due. If a refund of a deposit made pursuant to paragraph (a)(4) of this section is due, the importer should contact Customs officials at the port of entry, not the Department of Commerce.

§ 301.9 [Amended]

11. Amend § 301.9 by removing ''latter'' from the first sentence of the introductory text of paragraph (a) and adding ''receiving'' in its place.

12. § 301.10 is revised to read as follows:

§ 301.10 Importation of repair components and maintenance tools under HTSUS subheadings 9810.00.65 and 9810.00.67 for instruments previously the subject of an entry liquidated under subheading 9810.00.60, HTSUS.

(a) An institution owning an instrument that was the subject of an entry liquidated duty-free under subheading 9810.00.60, HTSUS, that wishes to enter repair components or maintenance tools for that instrument may do so without regard to the application procedures required for entry under subheading 9810.00.60, HTSUS. The institution must certify to Customs officials at the port of entry that such components are repair components for that instrument under subheading 9810.00.65, HTSUS, or that the tools are maintenance tools necessary for the repair, checking, gauging or maintenance of that instrument under subheading 9810.00.67, HTSUS.

(b) Instruments entered under subheading 9810.00.60, HTSUS, and subsequently returned to the foreign manufacturer for repair, replacement or modification are not covered by subheading 9810.00.65 or 9810.00.67, HTSUS, although they may, upon return to the United States, be eligible for a reduced duty payment under subheading 9802.00.40 or 9802.00.50, HTSUS (covering articles exported for repairs or alterations) or may be made the subject of a new application under subheading 9810.00.60, HTSUS.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

Raymond W. Kelly,

Commissioner of Customs.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 01–13165 Filed 5–24–01; 8:45 am]

BILLING CODE 3510–DS–P; 4820–02–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

RIN 0960–AE69

Coverage of Employees of State and Local Governments; Office of Management and Budget (OMB) Control Number

AGENCY: Social Security Administration (SSA).

ACTION: Final rule.

SUMMARY: We revised our regulations which contain the rules on providing Social Security coverage for the services of employees of State and local governments and interstate instrumentalities on August 29, 1988 (53 FR 32972). The regulations were effective August 29, 1988 with the exception of several sections which contained information collection and recordkeeping requirements which were not effective until they were subsequently approved by OMB. This final regulation notifies the public that the information collection and recordkeeping requirements for those sections were approved by OMB and provides the OMB control number. It also provides the OMB control number for the information collection requirements in two additional sections.

EFFECTIVE DATES: This amendment is effective on May 25, 2001. 20 CFR 404.1203, 404.1204(a)(5) and (b), 404.1214(d), 404.1216(a), 404.1220. 404.1225, 404.1237, 404.1239, 404.1242, 404.1243, 404.1247, 404.1249, 404.1251, 404.1265, 404.1271, 404.1272 became effective on December 2, 1988 when OMB approved the information collection and recordkeeping requirements.

The reporting requirements in § 404.1215 were approved by OMB on May 23, 1996, and the reporting requirements in § 404.1292 were approved by OMB on August 16, 1999.

FOR FURTHER INFORMATION CONTACT: Georgia E. Myers, Regulations Officer, Office of Process and Innovation Management, Social Security Administration, 2109 West Low Rise Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–1713 or TTY (410) 966–5609. For information on eligibility, claiming benefits, or coverage of earnings, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet web site, Social Security Online, at www.ssa.gov.

SUPPLEMENTARY INFORMATION: Under the provisions of the Paperwork Reduction Acts of 1980 and 1995, Federal agencies are required to obtain OMB approval of information collection and recordkeeping requirements that are contained in any regulations they publish. Once OMB has given its approval, OMB's regulations recommend that Federal agencies, in certain situations, display the control number assigned by OMB as part of the agency's regulatory text.

When we published a revision to 20 CFR 404, subpart M in the **Federal Register** on August 29, 1988 (53 FR 32972), several sections of subpart M (§§ 404.1203, 404.1204(a)(5) and (b), 404.1214(d), 404.1216(a), 404.1220, 404.1225, 404.1237, 404.1239, 404.1242, 404.1243, 404.1247, 404.1249, 404.1251, 404.1265, 404.1271 and 404.1272) contained information collection and recordkeeping requirements requiring OMB approval. We stated in the Preamble to those regulations that the regulations containing information collection and recordkeeping requirements were not effective on August 29, 1988, but would be effective upon OMB approval of those requirements. We also stated in the Preamble that when OMB gave its approval, notification of the approval would be published in the **Federal Register**.

As required by OMB's regulations in effect at that time, we published a notice in the **Federal Register** on October 7, 1988 (53 FR 39523) stating we had submitted these information collection and recordkeeping requirements to OMB for approval. OMB approved the information collection and recordkeeping requirements under control number 0960–0425 on December 2, 1988. On March 15, 1991, we published a notice in the **Federal Register** at 56 FR 11234 which advised the public that OMB had approved the reporting and recordkeeping requirements and provided the OMB control number and period of approval.

We requested an extension of the OMB approval of the information collection and recordkeeping requirements and published notices in the **Federal Register** on April 7, 1999 (64 FR 17051) and June 18, 1999 (64 FR 32913). The public had 60 days from the April 7, 1999 notice to comment and 60 days from the June 18, 1999 notice to comment; however, no public comments were received. OMB approved our request for extension of approval on August 16, 1999.

When the regulations were published on August 29, 1988, the Office of the Federal Register (OFR) added Effective Date Notes to the end of each of the sections designated as not being in effect because they contained information collection and recordkeeping requirements subject to OMB approval. These Effective Date Notes say that the sections will become effective upon approval of the reporting and recordkeeping requirements by OMB. When we amended § 404.1220 on August 16, 1995 (60 FR 42431), the Effective Date Note was still included with that section even though we had obtained OMB approval. OFR advised us that, in order for them to remove the Effective Date Notes, we must publish another regulation; i.e., they could not be removed on the basis of the notice we had published on March 15, 1991. The regulation would notify the public that OMB has given its approval and that the regulations containing the information collection and recordkeeping requirements are in effect. Therefore, in this final rule, we are publishing such a notification and are amending our regulations to show the OMB control number at the end of each section.

In addition, § 404.1215 contains information collection requirements. As required by OMB's regulations, we published notices in the **Federal Register** on December 29, 1995 (60 FR 67387) and March 15, 1996 (61 FR 10838) concerning the collection request in § 404.1215. The public had 60 days from the December 29, 1995 notice to comment on it and 30 days from the March 15, 1996 notice to comment; however, no public comments were received. OMB approved the information collection requirements for § 404.1215 on May 23, 1996 and assigned a control number (0960–0425). We requested an extension of the OMB approval for the information collection requirements in this section, along with the other regulations sections previously discussed in this Preamble, and published notices in the **Federal Register** on April 7, 1999 (64 FR 17051) and June 18, 1999 (64 FR 32913). As previously stated, OMB approved the request for extension of approval on August 16, 1999. We are now amending our regulations to show the OMB control number at the end of § 404.1215.

Finally, § 404.1292 also contains information collection requirements. We submitted § 404.1292 with the other regulatory sections previously discussed in this Preamble in the request for an extension of the OMB approval, and published the notices in the **Federal Register** on April 7, 1999 (64 FR 17051) and June 18, 1999 (64 FR 32913). As previously discussed, OMB approved the request on August 16, 1999. We are now amending our regulations to show the OMB control number at the end of § 404.1292.

Regulatory Procedures

Justification for Final Rule

Pursuant to section 702(a)(5) of the Social Security Act, SSA follows the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in the development of its regulations. The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that, under 5 U.S.C. 553(b)(B), good cause exists for waiver of the notice and public comment procedures for this regulation because those procedures are unnecessary in this situation. This regulation does not contain discretionary policy or substantive change, but merely notifies the public of prior OMB approval for the information collection and recordkeeping requirements contained in several sections and supplies the OMB control number for several sections. Therefore, we are issuing this regulation as a final rule.

In addition, we find good cause for dispensing with the 30-day delay in the effective date, as provided by 5 U.S.C. 553(d), because such delay in unnecessary. This is not a substantive rule. It merely notifies the public of prior OMB approval for several sections and provides the OMB control number for several sections.

Executive Order 12866

We have consulted with OMB and determined that this rule does not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, it was not subject to OMB review. We have also determined that this final rule meets the plain language requirement of Executive Order 12866.

Regulatory Flexibility Act

We certify that this final regulation will not have a significant economic impact on a substantial number of small entities, including small governmental jurisdictions. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

This final regulation imposes no additional reporting/recordkeeping requirements necessitating clearance by OMB.

(Catalog of Federal Domestic Assistance Program No. 96.001 Social Security—Disability Insurance; 96.002 Social Security—Retirement Insurance; and 96.004 Social Security—Survivors Insurance)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-age, Survivors and Disability insurance, Reporting and recordkeeping requirements, Social security.

Dated: May 18, 2001.

Larry G. Massanari,

Acting Commissioner of Social Security.

For the reasons set forth in the preamble, subpart M of 20 CFR part 404 is amended as set forth below.

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart M—[Amended]

1. The authority citation for subpart M of part 404 continues to read as follows:

Authority: Secs. 205, 210, 218, and 702(a)(5) of the Social Security Act (42 U.S.C. 405, 410, 418, and 902(a)(5)); sec. 12110, Pub. L. 99–272, 100 Stat. 287 (42 U.S.C. 418 note); sec. 9002, Pub. L. 99–509, 100 Stat. 1970.

2. A parenthetical is added to the end of sections 404.1203, 404.1204, 404.1214, 404.1215, 404.1216, 404.1220, 404.1225, 404.1237, 404.1239, 404.1242, 404.1243, 404.1247, 404.1249, 404.1251, 404.1265, 404.1271, 404.1272, and 404.1292 to read as follows:

(Approved by the Office of Management and Budget under control number 0960–0425.)

[FR Doc. 01–13242 Filed 5–24–01; 8:45 am]

BILLING CODE 4191–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. AK–01–003b; FRL–6986–4]

Clean Air Act Promulgation of Attainment Date Extension for the Fairbanks North Star Borough Carbon Monoxide Nonattainment Area, AK

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a one-year extension of the attainment date for the Fairbanks North Star Borough (FNSB), Alaska nonattainment area for carbon monoxide (CO). FNSB failed to attain the National Ambient Air Quality Standards (NAAQS) for CO by the applicable attainment date of December 31, 2000. This action is based on EPA's evaluation of air quality monitoring data and the extension request submitted by the Commissioner, Alaska Department of Environmental Conservation (ADEC) on March 29, 2001, in accordance with section 186(a)(4) of the Clean Air Act (CAA).

DATES: This action is effective on July 24, 2001 unless EPA receives adverse comments by June 25, 2001. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Written comments may be mailed to Connie Robinson, EPA, Region 10, Office of Air Quality, OAQ–107, 1200 Sixth Ave., Seattle, WA 98101. Copies of the documents relevant to this action are available for public inspection during normal business hours at EPA, Region 10, 1200 Sixth Ave., Seattle, WA 98101. Copies of the state documents relevant to this action are available for public inspection at the Alaska Department of Environmental Conservation, 410 Willoughby, Suite 303, Juneau, Alaska 99801–1795.

FOR FURTHER INFORMATION CONTACT: Connie Robinson, EPA, Region 10, Office of Air Quality, OAQ–107, 1200 Sixth Ave., (206) 553–1086.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we,'' ''us,'' or ''our'' is used, we mean the Environmental Protection Agency (EPA). This supplementary information is organized as follows:

I. Background

A. Designation and Classification of CO Nonattainment Areas

Upon enactment of the 1990 CAA Amendments, areas meeting the requirements of section 107(d) of the CAA were designated nonattainment for CO by operation of law and classified either ''moderate'' or ''serious.'' Moderate CO nonattainment areas with

a design value between 9.1–16.4 parts per million (ppm), were expected to attain the CO NAAQS as expeditiously as practicable but no later than December 31, 1995. Serious CO nonattainment areas with a design value between 16.5 ppm and above were expected to attain the CO NAAQS as expeditiously as practicable but no later than December 31, 2000.

States containing areas designated as either moderate or serious for CO had the responsibility of developing and submitting to EPA State Implementation Plans (SIPs) which addressed the nonattainment air quality problems in those areas. EPA issued general guidance concerning the requirements for SIP submittals, which included requirements for CO nonattainment area SIPs, pursuant to Title I of the Act, (see generally 57 FR 13489 (April 16, 1992) and 57 FR 18070 (April 28, 1992)). The air quality planning requirements for CO nonattainment areas are set out in sections 186–187 respectively of the CAA, which pertain to the classification of CO nonattainment areas and submission of SIP requirements for these areas.

B. How Does EPA Make Attainment Determinations?

EPA has the responsibility for determining whether a nonattainment area has attained the CO NAAQS by the applicable attainment date. We have the responsibility of making attainment determinations for CO nonattainment areas by no later than six (6) months after the applicable attainment date for the areas. We make attainment determinations for CO nonattainment areas based upon whether an area has 8 consecutive quarters (2 years) of clean air quality data. No special or additional SIP submittal is required from the State for this determination. Section 179(c)(1) of the Act provides that the attainment determination is to be based upon an area's ''air quality as of the attainment date.'' We make the determination of whether an area's air quality is meeting the CO NAAQS by the applicable attainment date based upon the most recent 2 years of data gathered at established state and local air monitoring stations (SLAMS) and entered into the Aerometric Information Retrieval System (AIRS). Data entered into the AIRS has been determined to meet federal monitoring requirements (see 40 CFR 50.8, 40 CFR part 50, appendix C, 40 CFR part 53, 40 CFR part 58, appendix A & B) and in accordance with EPA policy as stated in a memorandum from William G. Laxton, Director Technical Support Division, entitled ''Ozone and Carbon Monoxide Design Value Calculations'' June 18, 1990, may be used to determine the attainment of areas. CO design values are discussed in terms of the 8-hour CO NAAQS. The CO NAAQS requires that not more than one, 8-hour average per year can exceed 9.0 ppm (greater than 9 or equal to 9.5 ppm to adjust for rounding). CO attainment is evaluated by reviewing 8 quarters or a total of 2 consecutive and complete years of data. If an area has a design value greater than 9.0 ppm, this serves as an indication that a monitoring site in the area, where the second-highest (non-overlapping) 8-hour average was measured, had CO concentrations measured at levels greater than 9.0 ppm in at least 1 of the 2 years and that there were at least 2 values above the standard (9.0 ppm) during 1 of the 2 years being reviewed at a particular monitoring site. Thus, the standard was not met.

C. What Are the CAA Requirements for an Attainment Date Extension That Apply to FNSB?

Pursuant to section 186(a)(4) of the Act, if a State containing a CO nonattainment area does not have 2 consecutive years of clean air quality date to demonstrate that the area has attained the CO NAAQS, the State may apply for a one year extension of the attainment date. EPA may extend the attainment date for one additional year only if the State has: (1) Complied with the requirements and commitments pertaining to the applicable implementation plan for the area, and (2) the area has measured no more than 1 exceedance of CO NAAQS at any monitoring site in the nonattainment area in the year preceding the extension year. If the State does not have the requisite number of years of clean air quality data to show attainment in a serious CO nonattainment area by its attainment date and does not apply, or does not qualify for an attainment date extension, the area will be determined by EPA to have failed to attain the standard and the State must submit a plan revision pursuant to section 187(g) of the CAA.

The authority delegated to the Administrator to extend attainment dates for serious areas is discretionary. Section 186(a)(4) of the Act provides that the Administrator ''may'' extend the attainment date for areas that meet the minimum requirements specified above. The provision does not dictate or compel that we grant extensions to such areas. In exercising this discretionary authority for serious CO nonattainment areas, we will examine the air quality planning progress made in the serious CO nonattainment area. We will also be disinclined to grant an attainment date extension unless a State has, in substantial part, addressed the applicable CO nonattainment area planning obligations for the area. In order to determine whether the State has substantially met these planning requirements, we will review the State's application for the attainment date extension to determine whether the State has: (1) Adopted and substantially implemented control measures to satisfy the requirements for the serious CO nonattainment area; and (2) demonstrated that reasonable further progress (RFP) is being met for the area as defined by section 171(1) of the CAA.

If the State cannot make a sufficient demonstration that the area has complied with the extension criteria stated above, the area will be required to submit a plan revision within 9 months of this determination by EPA in the **Federal Register** pursuant to section 187(g) of the CAA. If an attainment date extension is granted for the area, at the end of the extension year, we will again determine whether the area has attained the CO NAAQS. If the requisite 2 consecutive years of clean air quality data needed to demonstrate attainment are not met, the State will be required to submit a plan revision for the area pursuant to section 187(g) of the CAA.

II. EPA's Action

A. What Is EPA Approving?

In response to a request from the Commissioner, ADEC, we are, by today's action, granting a 1-year attainment date extension for the FNSB CO nonattainment area. This action extends the attainment date from December 31, 2000, to December 31, 2001. The action to extend the attainment date for FNSB is based on monitored air quality data for the CO NAAQS for calendar year 2000.

B. What Is the History Behind This Approval?

FNSB was designated nonattainment for CO by operation of law upon enactment of the 1990 CAA Amendments. Under 186(a) of the Act, each CO area designated nonattainment was also classified by operation of law as either ''moderate'' or ''serious'' depending on the severity of the area's air quality problem. States containing areas that were classified as moderate nonattainment were required to attain the CO NAAQS as expeditiously as practicable but no later than December 31, 1995. If a moderate CO nonattainment area was unable to attain the CO NAAQS by December 31, 1995, the area was reclassified as a serious

nonattainment area by operation of law. FNSB was reclassified as a serious nonattainment area by operation of law effective March 30, 1998 (see 63 FR 9945, February 27, 1999). As a result of the reclassification, FNSB was to demonstrate attainment of the CO NAAQS as expeditiously as practical but no later than December 31, 2000, the CAA attainment date for all serious CO areas.

As noted above, EPA has the responsibility for determining whether a nonattainment area has attained the CO NAAQS by the applicable attainment date. If the State does not have the 2 consecutive clean years of data to show attainment of the NAAQS, a State may apply for an extension of the attainment date. Notwithstanding significant efforts by the State of Alaska to demonstrate attainment, the State has failed to meet the December 31, 2000 deadline. We are now approving an extension of the attainment date to December 31, 2001. As we explain more fully below, we believe the extension is warranted under CAA section 186(a)(4).

III. Basis for EPA's Action

A. Air Quality Data

We are using data from calendar year 2000 to determine whether the area met the air quality criteria for granting a 1-year extension to the attainment date under section 186(a)(4)(B) of the CAA.

The FNSB operates three CO monitors: Federal Building/2nd & Cushman, State Office Building/675 7th Avenue, and Hunter Elementary/17th & Gilliam Way. Sampling at these sites is conducted every day. Data was submitted by Alaska to be included in AIRS and the data was deemed valid by EPA.

In calendar year 2000, one exceedance occurred on February 8, 2000, at the Federal Building/2nd & Cushman site and one exceedance occurred on February 8, 2000, at the State Office Building/675 7th Avenue. The 8-hour CO NAAQS average was 11.5 and 9.7 respectively. Neither of these monitoring stations exceeded the CO standard a second time during calendar year 2000. Therefore, no violation of CO NAAQS occurred during 2000. The area has met one of the requirements to qualify for an attainment date extension under section 186(a)(4).

B. Compliance With the Applicable SIP

The State of Alaska submitted CO SIP revisions to comply with the CAA on July 11, 1994 and we approved the revisions effective June 5, 1995 (see 60 FR 17232, April 5, 1995). Alaska submitted three additional SIP revision packages on February 6, 1997, June 1, 1998, and September 10, 1998 (see 64 FR 72940, December 29, 1999). The approved SIP control strategies consist of controls for stationary and area sources of CO emissions. Based on the milestone report the State submitted with their extension request, we believe that Alaska is in compliance with the requirements and commitments in the applicable implementation plan that pertains to the FNSB CO nonattainment area. The milestone report indicates that Alaska has implemented and continues to operate its adopted emission control measures. The predominant source of CO emission in the nonattainment area is motor vehicles. The moderate CO area SIP focuses on control strategies to reduce CO from motor vehicles. These control measures consist of the federal emission controls required for new vehicles, and the Inspection/Maintenance (I/M) program. The contingency measure adopted for FNSB was an enhanced repair technician training and certification program as an element of the I/M program. This program element was triggered when Fairbanks failed to attain by the moderate area deadline of December 31, 1995, and has been fully implemented. All current control strategies are being maintained.

C. Substantial Implementation of Control Measures

The State of Alaska has developed and implemented substantial control measures for the FNSB nonattainment area for the serious CO SIP to be submitted. Improvements to the vehicle I/M program which have already been submitted to EPA will be incorporated into the serious area plan. These include improved test equipment and procedures which increase accuracy of CO emissions measurements and pass/fail determinations; quality assurance and quality control procedures which result in a lower rate of fraudulent and erroneous tests; more stringent repair requirements which reduce the number of repair cost waivers; an increase in vehicle-related enforcement efforts by ADEC; and a vehicle sticker program to show compliance with I/M program requirements.

FNSB has been working toward reducing cold starts through the use of engine block heaters/electrical plug-ins. Recent testing programs have shown plug-ins provide a substantial reduction in motor vehicle cold start emissions. The Borough has increased the number of parking spaces equipped with electrical outlets in the 1995–2000 period. This has been achieved by retrofitting existing public facilities and including outlets in all new public facilities. It has also been achieved by encouraging the private sector to retrofit existing facilities and to include outlets in new private facilities. This effort has resulted in 786 additional spaces equipped with electrical outlets, an increase of about 12 percent. In contrast, data from the Alaska Department of Transportation and Public Facilities (ADOT&PF) indicate that travel increased by only 3.1% in the same 1995–2000 period. This trend is expected to continue using Congestion Mitigation Air Quality (CMAQ) funds that FNSB has secured from the Federal Highway Administration for retrofitting additional public parking spaces.

FNSB has shown a commitment to modifying public behavior through outreach efforts. Initially, they began informing the public of air quality alerts when CO forecasts indicated that the 9 ppm 8-hour average was likely to be exceeded. As part of the alert, the public is encouraged to minimize driving, plug in their vehicles, and use transit when possible. Additional outreach efforts urge citizens to plug in at warmer temperatures informing them of the benefits to the air and to their vehicles through reduced maintenance. Public service announcements have also warned the public of increased enforcement activities for violators of the I/M program. Public outreach advertising free bus rides during the CO season in 2000/2001 was quite successful and ridership increased 72% in 2000.

Over the past 5 years 11 separate highway improvement projects were completed. The projects focused primarily on intersection and signalization improvements. Several projects were also focused on roadway upgrades and reconstruction. ADOT&PF estimates that the combined effort of these improvements increases speeds in the nonattainment area by 0.2 miles per hour.

D. Reasonable Further Progress

The historical trend in the FNSB's air quality has been toward lower CO levels. CO concentrations have decreased from a second-high 8-hour average of 19.0 ppm and 45 violations in 1983, to a second-high 8-hour average of 8.9 ppm and zero violations in calendar year 2000. The continued improvement in CO concentrations in the FNSB of 32% CO emission reduction projected between 1995 and 2000, has been achieved mainly by emission reductions resulting from turnover of the vehicle fleet and required vehicle repairs and maintenance under the I/M program.

These control measures and emission reductions are permanent and enforceable.

The implementation of the enhanced I/M, combined with the Federal Motor Vehicle Control Program; the continuation of the program of retrofitting public parking lots with electrical outlets; and the recent free transit program along with an expanded public awareness program is expected to result in further decreases in CO emissions and ambient concentrations in the FNSB. Based on the above, EPA believes that RFP toward attainment of the CO NAAQS has been demonstrated.

IV. Summary of Action

In summary, for the reasons discussed above, EPA is granting the State's request for a 1-year extension of the attainment date for the FNSB CO nonattainment area from December 31, 2000, to December 31, 2001.

EPA is publishing this action without prior proposal because the Agency views this action as noncontroversial and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the extension should adverse comments be filed. This action will be effective July 24, 2001 without further notice unless we receive relevant adverse comment by June 25, 2001. If EPA receives such comments, then this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective July 24, 2001.

V. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely approves a state request for an attainment date extension. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule does not impose any enforceable duty, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state request for an attainment date extension and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective July 24, 2001 unless EPA receives adverse written comments by June 25, 2001.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 24, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: May 16, 2001.

Charles Findley,

Acting Regional Administrator, Region 10.

[FR Doc. 01–13273 Filed 5–24–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–6967–5]

RIN 2060–AD94

National Emission Standards for Hazardous Air Pollutants From Petroleum Refineries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical correction.

SUMMARY: Under the Clean Air Act (CAA), the EPA issued a final rule entitled, ''National Emission Standards for Hazardous Air Pollutants: Petroleum Refineries'' (Petroleum Refineries NESHAP) published in the **Federal Register** on August 18, 1995 (60 FR 43260). A subsequent direct final rule, published on June 12, 1996 (61 FR 29876) corrected errors and clarified regulatory text of the Petroleum Refineries NESHAP. This action will correct an error in the amendatory instructions of the 1996 direct final rule amendments. Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The EPA has determined that there is good cause for making this technical correction without prior proposal and opportunity for comment because the changes to the rule are minor technical corrections, are noncontroversial in nature, and do not substantively change the requirements of the Petroleum Refineries NESHAP. Thus, notice and public procedure are unnecessary. The EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

EFFECTIVE DATE: May 25, 2001.

ADDRESSES: Docket No. A–93–48 contains the supporting information used in the development of this rulemaking. The docket is located at the U.S. EPA in room M–1500, Waterside Mall (ground floor), 401 M Street SW., Washington, DC 20460, and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. James Durham, Waste and Chemical Processes Group, Emission Standards Division (MD–13), Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number: (919) 541–5672, facsimile number: (919) 541–0246, electronic mail address: durham.jim@epa.gov.

SUPPLEMENTARY INFORMATION: *Regulated Entities.* The entities potentially affected by this technical correction include:

Category	SIC code	NAIC	Examples of regulated entities
Industry	2911	32411	Petroleum Refineries.
Federal Government			Not Affected.
State/Local/Tribal Government			Not Affected.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this technical correction. This table lists the types of entities that we are now aware could potentially be regulated by this technical correction. Other types of entities not listed in the table could also be regulated. To determine whether your facility, company, business, organization, etc., is regulated by this technical correction, you should carefully examine the applicability criteria in the rule. If you have questions regarding the applicability of this technical correction to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

World Wide Web (WWW). In addition to being available in the docket, an electronic copy of today's technical correction will be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of this technical correction will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules *http://www.epa.gov/ttn/oarpg.* The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

I. Background and Description of Correction

On August 18, 1995, the EPA promulgated the Petroleum Refineries NESHAP (60 FR 43260). On June 12, 1996, the EPA published in the **Federal Register** correcting amendments to the promulgated rule (61 FR 29876). Due to an error in the amendatory instructions in the correcting amendments, § 63.640(b)(1) and (2) were inadvertently removed from 40 CFR part 63, subpart CC. This technical correction adds those paragraphs back into the regulatory text.

II. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this technical correction is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget (OMB). Because the EPA has made a ''good cause'' finding that this technical correction is not subject to notice and comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). In addition, this technical correction does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of the UMRA. This technical correction also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 6, 2000). This technical correction does not have substantial direct effects on the States, or on the relationship between the national government and the States, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This technical correction also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant.

This technical correction action does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (15 U.S.C. 272) do not apply. This technical correction also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this technical correction, EPA has taken the necessary

steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of these rule amendments in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This technical correction does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the Petroleum Refineries NESHAP.

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the Congressional Review Act if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary, or contrary to the public interest. This determination must be supported by a brief statement (5 U.S.C. 808(2)). As stated previously, the EPA has made such a good cause finding, including the reasons therefor, and established an effective date of May 25, 2001. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the technical correction in the **Federal Register**. This technical correction is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: April 9, 2001.

Robert D. Brenner,

Acting Assistant Administrator for Air and Radiation.

For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart CC—[Amended]

2. Section 63.640 is amended by revising paragraph (b) to read as follows:

§ 63.640 Applicability and designation of affected source.

* * * * *

(b) * * *

(1) If the predominant use of the flexible operation unit, as described in paragraphs (b)(1)(i) and (ii) of this section, is as a petroleum refining process unit, as defined in § 63.641, then the flexible operation unit shall be subject to the provisions of this subpart.

(i) Except as provided in paragraph (b)(1)(ii) of this section, the predominant use of the flexible operation unit shall be the use representing the greatest annual operating time.

(ii) If the flexible operation unit is used as a petroleum refining process unit and for another purpose equally based on operating time, then the predominant use of the flexible operation unit shall be the use that produces the greatest annual production on a mass basis.

(2) The determination of applicability of this subpart to petroleum refining process units that are designed and operated as flexible operation units shall be reported as specified in § 63.654(h)(6)(i).

* * * * *

[FR Doc. 01–13276 Filed 5–24–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 68

[WT Docket No. 99–217; CC Docket No. 96–98; CC Docket No. 88–57; FCC 00–366]

Effective Date Established for Amendments to the Commission's Rules on Over-the-Air Reception Devices and the Definition of the Telecommunications Network Demarcation Point

AGENCY: Federal Communications Commission, Wireless Telecommunications Bureau.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Federal Communications Commission (''the Commission'') announces that regulations adopted in the *Competitive Networks Order* of October 12, 2000 (Competitive Networks Order), amending the Commission's rules governing restrictions on placement of over-the-air reception (''OTARDs'') devices and the definitions of the telecommunications network demarcation point have been approved by the Office of Management and Budget (OMB).

DATES: The rule changes to § 1.4000 which published on January 11, 2001 (66 FR 2333) and §§ 68.3 and 68.105, which published on January 24, 2001 (66 FR 7581) are effective May 25, 2001.

FOR FURTHER INFORMATION CONTACT: Lauren Van Wazer at (202) 418–0030 or Leon Jackler at (202) 418–0946 of the Wireless Telecommunications Bureau.

SUPPLEMENTARY INFORMATION: On October 12, 2000, the Commission adopted the Competitive Networks Order in 47 CFR Parts 1, 64 and 68, in WT Docket No. 99–217; CC Docket No. 96–98; CC Docket No. 88–57; FCC 00–366 (66 FR 2322) to foster competition in local communications markets by implementing measures to ensure that competing telecommunications providers are able to provide services to consumers in multiple tenant environments. The rule changes to 47 CFR 64.2500; 64.2501; and 64.2502, which published on January 11, 2001 (66 FR 2322) went into effect on March 12, 2001.

2. However, some of the regulations adopted in the *Competitive Networks Order* included information collections that required the approval of OMB pursuant to Public Law 104–13 (1995). The Competitive Networks Order explained that effectiveness of the rules requiring an information collection was

contingent upon OMB approval. OMB granted approval of the rules on May 4, 2001 under OMB control number 3060–0975. Accordingly, these regulations will become effective May 25, 2001. This notice constitutes publication of the effective date of the regulations.

3. This Public Notice is available for inspection and copying during normal business hours in the FCC Reference Center, 445 Twelfth Street, SW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800. This document is also available via the internet at: http://www.fee.gov/Bureaus/Wireless/News_Releases/2001/index.html in da01–1206.doc and da01–1206.txtformats.

List of Subjects

47 CFR Part 1

Communications common carriers, Telecommunications, Television.

47 CFR Part 68

Communications common carriers, Communications equipment, Telecommunications, Telephone.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 01–13178 Filed 5–24–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 222 and 223

[I.D. 040401B; Docket No. 010507114–1114–01]

RIN 0648–AP20

Sea Turtle Conservation; Restrictions to Fishing Activities

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; request for comments.

SUMMARY: NMFS is establishing conditions for the closure of the large-mesh gillnet fishery for monkfish in the mid-Atlantic to prevent unauthorized takings of sea turtles listed as threatened or endangered under the Endangered Species Act (ESA).

DATES: This temporary rule is effective from May 25, 2001, through June 30, 2001. Comments on this action are requested, and must be received by no later than 5 p.m., eastern daylight time, on June 25, 2001.

ADDRESSES: Written comments on this action should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments may also be sent via fax to 301–713–0376. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: David Bernhart (ph. 727–570–5312, fax 727–570–5517, e-mail David.Bernhart@noaa.gov), Barbara A. Schroeder (ph. 301–713–1401, fax 301–713–0376, e-mail Barbara.Schroeder@noaa.gov), or Mary Colligan (ph. 978–281–9116, fax 978–281–9394, e-mail Mary.A.Colligan@noaa.gov).

SUPPLEMENTARY INFORMATION: NMFS is establishing conditions for the closure of the large-mesh gillnet fishery for monkfish in the mid-Atlantic to prevent unauthorized takings of sea turtles listed as threatened or endangered under the Endangered Species Act (ESA). Specifically, NMFS placed fishery observers aboard the vessels fishing for monkfish in waters off North Carolina beginning in late March 2001. NMFS intends to continue to observe 100 percent of the vessels through May 2001 in waters off North Carolina and and off Virginia in the months of May and June 2001, to monitor for sea turtle interactions. Documented sea turtle takes by Federal permit holders beyond the levels specified in the incidental take statement of the December 21, 1998, biological opinion for the monkfish fishery are not authorized. If the levels specified in the incidental take statement (ITS) are met, NMFS will immediately file a notification with the Office of the Federal Register. As of the effective date of such notification, fishing with gillnets with a mesh size of 8 inches (20.32 cm) or greater, stretched, will be prohibited for a 30-day period in all offshore Atlantic waters between the North Carolina/South Carolina border and the line of latitude lying 60 nautical miles (nm) north of the position of the northernmost documented sea turtle take. The closure will include all vessels using large mesh gillnets targeting monkfish. If necessary, the closure may be extended for additional 30-day periods through the publication of additional notifications.

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA). The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) are listed as endangered. Loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) turtles are listed as threatened, except for populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.

Under the ESA and its implementing regulations, taking sea turtles--even incidentally--is prohibited, with exceptions identified in 50 CFR 223.206. The incidental take of endangered species may only legally be authorized by an ITS or an incidental take permit issued pursuant to section 7 or 10 of the ESA. Existing sea turtle conservation regulations specify procedures that NMFS may use to determine that incidental takings of sea turtles during fishing activities are unauthorized and to impose additional restrictions to conserve listed sea turtles to prevent unauthorized takings (50 CFR 223.206(d)(4)). Restrictions may be effective for a period of up to 30 days and may be renewed for additional periods of up to 30 days each.

Spring 2000 Sea Turtle Mortality

The Sea Turtle Stranding and Salvage Network documented a record-setting level of sea turtle strandings in North Carolina during the spring of 2000. There were two stranding events involving unprecedented numbers of turtles, along the Outer Banks in Dare and Hyde counties.

During the first stranding event, a total of 71 turtles (69 loggerheads and 2 Kemp's ridleys) washed ashore on the ocean-facing beaches between Rodanthe and Ocracoke from April 14 to17, 2000. There were no externally obvious signs of death on the turtles. Necropsies on 12 loggerheads and 2 Kemp's ridleys revealed that the turtles had excellent fat stores and were probably in good health prior to their deaths. A few of the turtles had been feeding on nearshore, benthic species, but most had empty guts, suggesting that they were in a migratory, rather than foraging, mode. The uniform state of decomposition of the turtles indicated that they had likely all died suddenly within a short period of time, probably no more than a few days before stranding on the beach. Large amounts of sargassum weed blew ashore, coincident with the turtle strandings, and considered indicative of the movement of warm Gulf Stream waters close to shore.

NMFS began investigating possible causes of the sea turtle mortality event immediately. The absence of other

species in the die-off was inconsistent with a toxic algae bloom. Conditions that may cause turtles to become cold-stunned, such as rapid drops in temperatures, did not occur and no sightings of cold-stunned turtles were reported to NMFS. There were no major traumatic injuries such as might be caused by dredging or blasting. None of the 58 turtles scanned for hooks with a magnetometer had ingested any fishing hooks. NMFS, therefore, turned attention to activities that could drown large numbers of turtles, such as net fishing. There was no trawl fishing activity in the area at the time, and gillnetting was reportedly light. Monkfish gillnetting was initially reported to be over in the area, but NMFS subsequently learned that gillnetters continued landing monkfish in North Carolina through the end of April. Large-mesh gillnets are known to be highly effective at catching turtles and in fact were the gear of choice during the historical sea turtle fishery. Sea turtles can drown in under an hour of forced submergence.

Sea turtle migration patterns and the oceanographic conditions around the Outer Banks in the spring appeared to have created a situation where large numbers of turtles were at risk of interacting with coastal fisheries. Loggerhead and Kemp's ridley turtles are known to use summer foraging grounds along the mid-Atlantic and northeast seaboard. For many turtles, their spring migrations to these feeding grounds from wintering areas along the southeastern U.S. or from warm offshore waters will bring them near Cape Hatteras. The warm Gulf Stream flows southwest to northeast past Cape Hatteras. The exact position of the Gulf Stream in this area can be highly variable week-to-week, and its position, along with local winds and counterclockwise warm-water currents from the Gulf Stream can strongly affect the coastal waters. In the spring of 2000, the Gulf Stream was quite close to Cape Hatteras: only 10 to 15 nm offshore. As usual, the coastal water inshore of the Gulf Stream had been strongly affected by eddies off the Gulf Stream. Around the time of this first stranding event, warm eddies brought water up to 20°C (68°F) ashore along Ocracoke and Hatteras Islands, while coastal waters farther to the north were still cold (less than 14°C), deterring turtles from proceeding northward up the coast. Turtles may have moved inshore with the warm eddy, becoming more vulnerable to coastal fisheries and more likely to strand. Onshore winds that began on April 14 likely pushed the carcasses ashore. Immediately after this stranding event, cold water pushed in from the north around Cape Hatteras, replacing the warm eddy waters. Warmer waters were only available to sea turtles offshore. While cold water prevailed along the coast, the strandings were greatly diminished.

A second stranding event began on May 3. From May 3-8, approximately 209 additional sea turtles (3 Kemp's ridleys, the rest loggerheads) were found dead on ocean beaches between Oregon Inlet and Hatteras Inlet. Virtually all were severely decomposed, suggesting that they had been dead at sea for at least several days before stranding. The numbers and the advanced decomposition of these animals precluded meaningful necropsies. Four of the carcasses were entangled in fishing gear: Three loggerheads carried pieces of gillnet with a mesh size of 12 inches (30.48 cm) stretched, and one loggerhead was carrying gillnet with a mesh size of 10 inches (25.4 cm) stretched.

Analysis of the oceanographic conditions before the second stranding event indicated that cold water lay along the North Carolina coast all the way to Cape Lookout through the end of April. Sea turtles can tolerate water temperatures down to about 10°C for short periods, but with warm water (greater than 20°C) only 15 to 20 nm offshore, they likely would have remained in or near the 20°C thermal front. Satellite imagery showed a small tongue of warm water curling back towards the coast from the Gulf Stream, about 15 nm east of Avon, on April 30. This tongue of warm water slowly grew and extended westward until it hit the North Carolina coast between Avon and Rodanthe on May 3, the day the turtle carcasses began to wash ashore. Because the satellite imagery shows a distinct water mass moving in from offshore at the exact place and time that the strandings started, it appears that the turtles also died offshore, perhaps as much as a week before they stranded, and were then brought ashore by that water mass. Three fisheries were active in offshore waters the week prior to the strandings: Hook-and-line fishing for mackerel, bluefish gillnetting, and monkfish gillnetting. The mesh sizes of the gear recovered with the stranded turtles were only consistent with gillnets for monkfish. Again, there was no evidence that the turtles had been hooked.

After examination of the strandings on the Outer Banks, NMFS concluded that unauthorized takes in large-mesh gillnets targeting monkfish and possibly dogfish contributed to these sea turtle mortalities. Other possible causes were not consistent with the nature of the strandings. Satellite sea surface temperature information allowed NMFS to reconstruct the likely times and locations of the sea turtle mortality. Gillnetting for dogfish and monkfish was occurring in those times and places. These fisheries deploy thousands of yards/meters of gillnets and have very long soak times, ranging from overnight to several days. A new Monkfish Fishery Management Plan (FMP), implemented in November, 1999, includes measures to phase-out the directed monkfish fishery in order to rebuild the resource within 10 years. The FMP includes: a permit requirement that limits participation to fishers that landed monkfish during a qualification period that preceded the North Carolina directed gillnet fishery; limits on the number of days fishers can land monkfish; and a restrictive trip limit, effective May 1, 2000. This restrictive limit may have encouraged fishers to increase their effort in March and April, 2000, in anticipation of the imminent reduction in revenues. Additionally, during that period, fishers who applied for a limited access permit but who were denied one because they did not qualify, were still able to fish while they appealed the denial of their application.

Bluefish gillnetting was also active in offshore waters at the time of the second mortality event. The bluefish fishery, however, uses smaller-mesh nets (5-1/2 inches/13.97 cm), much less net per boat, and much shorter soak times (less than an hour to several hours) than the large-mesh gillnet fisheries. While bluefish gillnets can catch and drown turtles, these fishing characteristics make bluefish gillnetting a smaller threat to sea turtles.

In response to these stranding events, on May 12, 2000, NMFS closed an area along eastern North Carolina and Virginia to fishing with large-mesh gillnets with a stretched mesh size of 6 inches (15.24 cm) or greater for a 30-day period through a temporary rule (65 FR 31500) under ESA authority using the procedures at 50 CFR 223.206(d)(4). The closed area included all Atlantic Ocean waters between Cape Hatteras and 38° N. latitude (near the Virginia-Maryland border), west of 75° W. longitude, and a specified part of Chesapeake Bay. The monkfish gillnet fishery was thus curtailed in this area while smaller mesh gillnet fisheries for bluefish, weakfish, croaker, and some dogfish continued.

After the large mesh closure was in effect, no additional mass stranding events occurred in North Carolina.

However, the monkfish fishery in North Carolina was over by the time the closure went into effect. The North Carolina monkfish fishery is typically active from January through April. It is likely that the closure did not have a significant effect on monkfish fishing in North Carolina, as the vessels had already moved northward by the time the closure was enacted.

The closure also reduced the monkfish gillnetting effort off the coast of Virginia and could have contributed to a lower number of strandings along Virginia's ocean facing beaches. Typically, strandings in Virginia are higher on the ocean facing beaches south of Cape Henry. However, a significant number of strandings still occurred in inshore Virginia waters in 2000, particularly inside the Chesapeake Bay and along the western shores of the Bay. Virginia strandings are typically highest in late May and early June, and over the past several years, stranding reports have shown an increase in strandings throughout Virginia. Comparisons between May and June strandings occurring along the Virginia coast, particularly the Virginia Beach oceanfront region, indicate that a large reduction in strandings occurred between 1999 and 2000 (Mansfield *et al.*, 2001). Due to the large-mesh gillnet closure, as well as the new trip limits imposed by the FMP on May 1, 2000, there was also a reduction in fisheries landings reported within this region. It is probable that the reduction in 2000 offshore strandings along the Virginia coast was at least in part attributable to the large mesh gillnet closure.

Impacts on Sea Turtles

The number of dead loggerheads in the two North Carolina stranding events in 2000 is unprecedented. The 10-year stranding average (1989–98) for the entire state of North Carolina for loggerheads is 219 per year; in contrast, 275 loggerheads stranded in just these two events. Springtime strandings in Dare and Hyde counties, North Carolina, however, are not unusual. Historically, there has been a small spike in turtle strandings in Statistical Zone 35, which generally corresponds to those two counties, as the north-migrating turtles encountered coastal fisheries. In recent years, the number of stranded turtles, particularly loggerheads, has grown. NMFS believes increased fishing effort, a shift of fishing effort later into the season, fishing methods that are more lethal to sea turtles, and, in 2000, weather and oceanographic conditions that caused sea turtles that were killed offshore to wash onto the beach contributed to this increase in loggerhead strandings.

Strandings are a minimum indicator of at-sea mortality as winds and currents will carry many carcasses offshore. It has been estimated that strandings represent, at best, only approximately 7 to 13 percent of the at-sea nearshore mortality (Epperly *et al.*, 1996). The turtle mortalities in the second spring 2000 stranding event likely occurred 10-20 nm offshore and only reached shore because a warm eddy broke off.

Continued loggerhead strandings at rates observed in 2000 may pose a serious threat to the species' recovery, especially as the strandings indicate mortalities occurring at a critical point in these turtles' migration to their summer foraging grounds. Most loggerheads in U.S. waters come from one of two genetically distinct nesting populations. The population that nests in south Florida is much larger and has shown increases in nesting. The northern population that nests from northeast Florida through North Carolina is much smaller, and its nesting numbers are stable or declining. Previous studies suggest that between 25 and 59 percent of the loggerhead sea turtles found in foraging areas from the northeastern U.S. to Georgia are from the smaller, northern population (TEWG, 2000; NMFS SEFSC, 2001).

Continued Threat to Sea Turtles

The environmental conditions that produced the unprecedented levels of sea turtle strandings in spring 2000 may recur in spring 2001. April and May are known to be the months of the year when the highest density of sea turtles occur along the coast of North Carolina (Keinath *et al.*, 1992), and turtles in this area may be vulnerable to entanglements in fishing gear, such as large mesh gillnets.

Regulations under the new monkfish FMP enacted on May 1, 2000, restrict landings of monkfish from approximately Cape Cod south to 996 pounds (452 kg) whole weight of monkfish per day-at-sea fished.

The FMP is likely to reduce fishing effort of North Carolina and Virginia. Through March 27, 2001, only 7 vessels were gillnetting for monkfish off of North Carolina. During March of 2000, 21 gillnet vessels reported monkfish landings in North Carolina. No change in the usual methods and timing of the fishery off the North Carolina coast is anticipated. In any event, the amount of effort in spring 2000 that preceded the large sea turtle mortality events was also rather low: Only 5 federally permitted monkfish boats were fishing off North Carolina in the second half of April, 2000, using about 3 miles (1.86 km) of tied-down gillnets each with soak times of 1 to 3 days. The practice of tying-down nets makes them more effective at snaring large monkfish but also makes them much more effective at entangling sea turtles.

The emergency restriction on large mesh gillnets that was implemented on May 12, 2000, may have temporarily prevented the continuation of excessive sea turtle mortality in waters off North Carolina and Virginia. The restriction came into effect too late, however, to prevent sea turtle interactions with monkfish gillnets off North Carolina that contributed to the strandings of almost 300 sea turtles. Oceanographic conditions and the timing of sea turtle migrations may cause large numbers of sea turtles to coincide again with monkfish gillnet fisheries along the coasts of North Carolina and Virginia through June 2001. Although monkfish gillnet effort will likely be reduced in 2001 compared to 2000, a small amount of large mesh gillnet fishing effort coupled with long soak times can result in sea turtle mortality as suggested by the 2000 mass stranding event in North Carolina. To prevent the recurrence of sea turtle takes this year, proactive measures are being taken to reduce the risk to turtles from the monkfish gillnet fishery and should focus on large-mesh gear that poses the greatest threat. Large-mesh gillnet fisheries occurring along the path where sea turtles migrate can capture and kill large numbers of turtles and possibly disrupt other turtles from reaching important feeding areas.

Authorized Level of Incidental Take of Sea Turtles

Some take of sea turtles incidental to the monkfish fishery is authorized. The monkfish fishery was analyzed in a biological opinion signed on December 21, 1998, conducted on the FMP. That biological opinion included an annual incidental take authorization for the entire Federal monkfish fishery of six loggerhead turtles observed taken, with no more than three dead and up to one individual lethal or non-lethal Kemp's ridley, green, or leatherback sea turtle.

The FMP, which phases out the directed monkfish fishery, was supposed to be implemented May 1, 1999, but implementation was delayed until November 8, 1999.

In early 1999, NMFS observers were aboard two monkfish gillnet trips out of North Carolina in March and documented the capture of nine loggerhead, six dead, and one dead Kemp's ridley. These observed takes were unauthorized given that these monkfish trips were not federally

permitted at that time. In 2000, the four loggerhead carcasses carrying pieces of large mesh gillnet attributable to the monkfish fishery, also exceeded the incidental take allowance of three dead loggerheads. NMFS has reinitiated ESA section seven consultation on the FMP due to these sea turtle takes as well as possible takes of right whales. A biological opinion and revised ITS will be issued in the late spring or early summer of 2001.

To prevent the recurrence of unauthorized sea turtle takes this spring, NMFS has implemented an extensive monitoring program to detect sea turtle mortality in the monkfish gillnet fishery early and to curtail fishing quickly if the sea turtle takes meet or exceed the levels in the 1998 ITS. Specifically, NMFS placed fishery observers aboard vessels fishing for monkfish in waters off North Carolina beginning in late March and intends to continue coverage through May 2001 and off Virginia in the months of May and June 2001 to monitor for sea turtle interactions. If documented (e.g., observed by an observer or other Federal or state employee or agent or stranded with clear evidence of monkfish gillnet entanglement) sea turtle takes in the monkfish gillnet fishery meet or exceed the authorized level in the ITS, NMFS will immediately close the area of concern to fishing with large mesh gillnets targeting monkfish. The closure will include all vessels using large mesh gillnets to target monkfish. Some of these vessels are not Federally permitted, and thus are not authorized to take sea turtles as specified in 50 CFR 223.206. A closure of the large mesh monkfish fishery will also apply to these vessels.

Pursuant to 50 CFR 223.206(d)(4), the exemption for incidental taking of sea turtles in 50 CFR 223.206(d)(1) does not authorize incidental takings during fishing activities if the takings would violate the restrictions, terms, or conditions, of an incidental take statement or biological opinion or if takings may likely jeopardize the continued existence of a species listed under the ESA. Regulations at 50 CFR 223.206(d)(4) provide that the Assistant Administrator for Fisheries, NOAA, (AA) may issue a determination that incidental takings in the course of fishing activities are unauthorized, and specify procedures that the AA may use to impose additional restrictions to conserve listed sea turtles and prevent such takings. From time to time, the AA has invoked these procedures in response to exceeding incidental take statements or other unauthorized sea turtle mortalities. The process to implement those restrictions generally requires about 7 days before additional restrictions become effective. Occasionally, there are also difficulties in notifying fishermen of the new restrictions that further affect the timeliness and effectiveness of the sea turtle protective measures.

Because of the rapid occurrence of an unprecedented number of sea turtle mortalities last spring, NMFS is concerned that reliance on the publication of a temporary rule, with its attendant time lag after the authorized level of take is met or exceeded, may result in a high level of illegal takings in the monkfish gillnet fishery this spring and a potentially serious impact to sea turtles. Therefore, NMFS is specifying, through this temporary rule, the procedures that the AA will follow in making determinations of unauthorized takings and implementing restrictions to fisheries. NMFS intends to continue to monitor the incidental take of sea turtles in the monkfish gillnet fishery through May 2001 in waters off North Carolina and in the waters off Virginia in the months of May and June 2001. The AA has determined that, if and when documented incidental takes of sea turtles meet or exceed six individual loggerhead turtles, total, or three dead loggerhead turtles or one individual Kemp's ridley, leatherback, or green turtle, live or dead, any subsequent takings of threatened or endangered sea turtles by monkfish gillnetters will be unauthorized. NMFS will immediately file a notification with the Office of the Federal Register if the authorized take levels are met or exceeded. On and after the effective date of such notification, fishing with gillnets with a mesh size of 8 inches (20.32 cm) or greater, stretched, will be prohibited for a 30-day period in all offshore Atlantic waters between the North Carolina/South Carolina border, and the line of latitude lying 60 nm north of the position of the northernmost documented sea turtle take. Because sea turtles will be migrating northward from Cape Hatteras, the closed area should include all waters to the south of the sites of the interactions as well as provide protection for turtles as they continue to migrate northward. The **Federal Register** notification will explicitly state the area affected by the closure. If necessary, the closure may be extended for additional 30-day periods through the publication of additional notifications. NMFS has reinitiated ESA section 7 consultation on the monkfish fishery. A new biological opinion and ITS will be issued in late spring or early summer of 2001. Upon completion of the new biological opinion, the AA may withdraw or modify this temporary rule, as warranted.

The fishery affected by this temporary rule is the monkfish gillnet fishery. Fewer monkfish gillnetters are expected to fish the North Carolina and Virginia coasts this year because of the limited access permit requirements in the FMP that reduced the total number of participants and the 996 lb (452 kg) trip limit restriction in waters south of approximately Cape Cod. In North Carolina last year, 21 gillnet vessels reported landings to NMFS from 91 monkfish trips in March, and 19 vessels reported landings from 71 trips in April. In March 2001, only seven boats (four of which have federal limited access monkfish permits) have been fishing for monkfish in North Carolina, completing 24 trips through March 27. Based on this, fishing effort in 2001 in terms of boats and trips appears to be a third of the 2000 levels in North Carolina. In April, May, and June of 2000, monkfish limited access vessels reported landings to NMFS for 125 trips from Virginia ports. A similar reduction in monkfish gillnetting is anticipated in Virginia during 2001.

The possible impact of this temporary rule is difficult to assess because it is uncertain whether and when additional restrictions might be implemented. A worst-case scenario would be the closure of the monkfish gillnet fishery in North Carolina and Virginia for the entire months of May, and June 2001. Assuming that the number of trips made in 2000 (197 trips) for April through June will occur in 2001, and that the number of trips can be averaged across these months, and given the trip limit imposed on May 1, 2000 (996 lb (452 kg) whole monkfish/trip), the maximum landings that may be foregone would be 130,808 lb (59,333 kg), whole. Current ex-vessel prices are around $0.75–1.25 per pound, so the potential lost revenue from those sales could be around $130,000. Current fishing effort, however, is less than one-third of last year's level. The monkfish gillnet fleet is also highly mobile, ranging from the Gulf of Maine through the mid-Atlantic, and fishermen would not be forced to forego fishing opportunities as they could still target monkfish farther to the north, where sea turtle interactions are much less likely in the springtime. Consequently, NMFS believes that the potential impact of this temporary rule on monkfish gillnet fishermen would be significantly less than this worst-case scenario analysis. Finally, no additional restrictions may be necessary if sea turtle interactions are avoided. The

gillnet fishermen have significant control over turtle catch rates by their selection of fishing areas and other fishing parameters (e.g., amount of net and length of soak).

The specific details of any restrictions implemented pursuant to the procedure in this temporary rule will be announced on the NOAA weather channel, in newspapers, and other media.

Additional Conservation Measures

The AA may withdraw or modify any additional restriction on fishing activities if the AA determines that such action is warranted. The additional restrictions in this temporary rule will only become effective upon publication of a subsequent notification in the **Federal Register**. Notification of any additional sea turtle conservation measures, including any extensions of any closure, will be published in the **Federal Register** pursuant to 50 CFR 223.206(d)(4).

Classification

This action has been determined to be not significant for purposes of Executive Order 12866.

The AA has determined that this action is necessary to provide adequate protection for endangered and threatened sea turtles, primarily the loggerhead sea turtle, pursuant to the ESA and other applicable law.

Pursuant to 5 U.S.C. 553(b)(B), the AA finds that there is good cause to waive prior notice and opportunity to comment on this action. It would be contrary to the public interest to provide prior notice and opportunity for comment because providing notice and comment would prevent the agency from implementing this action in a timely manner to protect the listed sea turtles. Notification of and opportunity to comment on the procedures allowing the implementation of temporary measures to protect sea turtles was provided through the proposed rule which established these actions (57 FR 18446, April 30, 1992). For the same reasons, the AA finds good cause also under 5 U.S.C. 553(d)(3) not to delay the effective date of this rule for 30 days. NMFS is making this rule effective from May 25, 2001, through June 30, 2001. Any closures implemented pursuant to this temporary rule will be effective upon filing with the Office of the Federal Register of a notification that additional sea turtle takes in the monkfish fishery are unauthorized. As stated earlier, the specific details of any restrictions implemented pursuant to the procedure in this temporary rule will be announced on the NOAA weather channel, in newspapers, and other media.

As prior notice and an opportunity for public comment are not required to be provided for this notification by 5 U.S.C. 553, or by any other law, the analytical requirements of 5 U.S.C. 601 *et seq.*, are inapplicable.

The AA prepared an Environmental Assessment (EA) for the final rule (57 FR 57348, December 4, 1992) requiring turtle excluder device use in shrimp trawls and creating the regulatory framework for the issuance of determinations of unauthorized takings and additional restrictions such as this. Copies of the EA and cited references are available (see **ADDRESSES**).

Authority: 16 U.S.C. 1531.

Dated: May 18, 2001.

Clarence G. Pautzke,

Acting Assistant Administrator for Fisheries.

[FR Doc. 01–13170 Filed 5–24–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 648

[Docket No. 010220043–1132–02; I.D. 120400D]

RIN 0648–AN65

Foreign Fishing and Fisheries of the Northeastern United States; Final 2001 Specifications for the Atlantic Herring Fishery and Foreign Fishing Restrictions

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final 2001 specifications for the Atlantic herring fishery.

SUMMARY: NMFS issues final specifications for the 2001 Atlantic herring fishery. The intent of the specifications is to conserve and manage the herring resource and provide for sustainable fisheries, and to comply with the provisions in the Fishery Management Plan for Atlantic Herring (FMP), which require annual specifications for the fishery.

DATES: Effective May 25, 2001 through December 31, 2001.

ADDRESSES: Copies of supporting documents, including the Environmental Assessment, Regulatory Impact Review, Final Regulatory Flexibility Analysis (EA/RIR/FRFA), and the Essential Fish Habitat Assessment are available from Patricia A. Kurkul, Regional Administrator, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930–2298. The EA/RIR/FRFA is accessible via the Internet at *http:/www.nero.gov/ro/doc/nr.htm*.

FOR FURTHER INFORMATION CONTACT: Myles Raizin, Fishery Policy Analyst, (978) 281–9104, e-mail at Myles.A.Raizin@noaa.gov, fax at (978) 281–9135.

SUPPLEMENTARY INFORMATION: Regulations implementing the FMP appear at 50 CFR part 648, subpart K. Regulations governing foreign fishing appear at 50 CFR part 600, subpart F. The FMP requires the New England Fishery Management Council's (New England Council's) Atlantic Herring Plan Development Team (PDT) to meet at least annually, no later than July each year, with the Atlantic States Marine Fisheries Commission's (Commission) Atlantic Herring Plan Review Team (PRT) to develop and recommend the following specifications for consideration by the New England Council's Atlantic Herring Oversight Committee: Allowable biological catch (ABC), optimum yield (OY), domestic annual harvest (DAH), domestic annual processing (DAP), total foreign processing (JVPt), joint venture processing (JVP), internal waters processing (IWP), U.S. at-sea processing (USAP), border transfer (BT), total allowable level of foreign fishing (TALFF), and reserve (if any). The PDT and PRT also recommend the total allowable catch (TAC) for each management area and sub-area identified in the FMP. A proposed rule to implement the 2001 Atlantic herring specifications was published in the **Federal Register** on March 5, 2001 (66 FR 13279) with a comment period ending April 4, 2001.

Final 2001 Specifications

The final 2001 specifications are contained in the following table. Changes from the 2000 specifications include increases in OY, DAH, TALFF, DAP, and the TAC reserve for Area 2. The impacts of these changes on the fishery were discussed in the preamble of the proposed rule and are not repeated here.

FINAL 2001 ATLANTIC HERRING SPECIFICATIONS

Specification	Amount (mt)
ABC	300,000
OY	250,000
DAH	245,000
TALFF	5,000
DAP	221,000
USAP	20,000
BT	4,000
JVPt	20,000
JVP– Area 2 and Area 3	10,000
IWP	10,000
Reserve	0
TAC–Area 1A	60,000
TAC–Area 1B	10,000
TAC–Area 2	50,000 (80,000 TAC reserve)
TAC–Area 3	50,000

The New England Council met in September 2000 and recommended conditions and restrictions for TALFF. Those recommendations include: A restriction on direct foreign fishing landward of 20 nautical miles from shore; a restriction limiting gear to midwater trawls; a condition that before foreign vessels can harvest more than 25 percent of their TALFF allocation, foreign vessels must receive 25 percent of its JVP allocation or provide proof for why this was not possible; a restriction on direct mealing by the foreign vessel; a restriction on fishing in regulated multispecies closed areas; and a prohibition on foreign fishing in Area 1 (Gulf of Maine). These conditions and restrictions are intended to strictly control any foreign fishing for TALFF for the benefit of the domestic fishery and in conformance with the objectives of the FMP. NMFS will consider these recommendations prior to authorizing TALFF. Such restrictions will be implemented within the authorization issued by NMFS to specific foreign vessels.

Comments and Responses

Fifty-two public comments were received on the proposed specifications prior to and during the comment period that ended on April 4, 2001. Specific comments related to the proposed annual specifications are discussed and responded to as follows:

Comment 1: A commenter supported the allocation of Atlantic herring JVP and TALFF.

Response: This final rule implements the proposed allocation of Atlantic herring JVP and TALFF.

Comment 2: Many commenters opposed the allocation of Atlantic herring TALFF. One stated that commercial fishers have been unable to harvest even a small percentage of the TAC based on the current assessment of the herring fishery, leading fishers to believe that the assessments overestimate the actual stock size by orders of magnitude. The commenter concluded that NMFS does not have the data to support taking such a risk of exploiting such a valuable resource by establishing TALFF.

Response: The most recent stock assessment for Atlantic herring (the 27th Northeast Regional Stock Assessment Workshop, December, 1998 (SAW–27)) concluded that the stock is at a high level of biomass and is underexploited. The total biomass of Atlantic herring continued to increase in 1999, reaching the highest levels observed in the NMFS spring bottom trawl survey, and significantly above the biomass necessary to achieve maximum sustainable yield. The PDT concluded that biomass of the coastal stock component is at or near the theoretical carrying capacity. Projections based on SAW-27 indicate fishing mortality continues to be low. Landings of Atlantic herring increased in 1999, to approximately 90,000 mt, from about 82,000 mt in 1998, but were still below the levels of 1996 and 1997. Landings in the Gulf of Maine (Areas 1A and 1B) increased from 47,000 mt to 65,000 mt, while landings on Georges Bank (Area 3) declined from 18,000 mt to 5,500 mt. Landings in Southern New England and the Mid-Atlantic (Area 2) increased by 2,500 mt. The maximum harvest of 5,000 mt of TALFF specification would occur only in Areas 2 and 3 and is already credited as part of the OY, which represents the sum of DAH and TALFF. In addition, the preferred ABC specification of 300,000 mt was chosen over an alternative that would have utilized FTarget , yielding over 1 million mt of ABC. The conservative approach in setting the ABC takes into account the uncertainty about current stock size, which may be overestimated (NEFSC 1998), and addresses the need to retain stability in the year-to-year estimate of ABC in the event of a downward shift in the biomass estimate. The potential harvest of 5,000 mt of TALFF would not result in a substantial incidental catch in Areas 2 and 3 of Atlantic herring or other non-targeted species.

Comment 3: A commenter raised the need for an ecosystem-wide, integrated approach to population assessments, and stated that removal of herring by the foreign fleets could dramatically affect the entire ecosystem food chain for both whales and certain species of finfish. The commenter concluded that any surplus of herring not harvested by domestic vessels should be reserved for the ecosystem and those species that depend upon them for food.

Response: In setting the harvest levels established by this action, both the New England Council and NMFS recognize that herring is a key forage resource for a number of finfish species, including recreationally important species such as striped bass and bluefish, and possibly some species of cetaceans. In response, the New England Council recommended that allowable catch levels be conservatively set. NMFS is implementing the New England Council recommendations. The TALFF specification represents only 1.6 percent of the conservatively set ABC and will have no adverse biological impact on the stock of herring or other forage species. While ecosystem approaches to fishery assessment and management are desirable, such approaches are not yet well developed. The current population assessment is consistent with the best available scientific information and scientific practices, complies with requirements of applicable law, and is

adequate to manage effectively the herring fishery.

Comment 4: A commenter argued that foreign vessels intending to operate under an allocation of TALFF would greatly exceed the restrictions of the law passed by Congress limiting the length, weight, and horsepower of vessels participating in the herring fishery.

Response: NMFS disagrees. In the NMFS appropriations bills for fiscal year 1999, Congress prohibited NMFS from using funds to issue permits or other authorization letters to domestic vessels only to fish for herring and mackerel that exceed the length, weight, and horsepower limit restrictions established by Congress until the New England and Mid-Atlantic Fishery Management Councils had the opportunity to develop appropriate management measures for herring and mackerel. Current herring regulations (§ 648.4(a)(10)(i)(B)) allow any domestic vessel to obtain a permit to fish for or retain herring in or from the EEZ, except for vessels that exceed either 165 ft (50.3 m) in length overall and 750 gross registered tons, or a shaft horsepower of 3000. These restrictions were put in place to control the harvest capacity of the domestic fleet and do not apply to foreign vessels in a JVP program or fishing for TALFF. In the case of foreign vessels, the harvest is strictly limited by the JVP and TALFF allocations.

Comment 5: One commenter expressed concern that increases in JVP, enhanced by the allocation of TALFF, could have serious consequences for the lobster fishery, which relies primarily on herring for bait. The commenter believed that herring fishing boats may opt to supply foreign boats, as opposed to landing their catch in New England communities.

Response: If vessels that participate in JVP operations would otherwise have landed herring in New England communities, it is possible that negative social and economic impacts from the reduced supply could result, including both higher prices for lobster bait and fewer onshore employment opportunities, such as stevedoring. However, it is not certain that JVP participants would otherwise have sold their catch in New England. But, even if vessels that would otherwise have sold their herring catch in New England participate in the JVP fishery, the magnitude of these impacts to communities will not be substantial, considering that the JVP allocation is only 4 percent of the total allowable harvest. This leaves 96 percent of the allowable harvest available to be sold as bait or for other domestic processing, including the entire TAC in Areas 1A and 1B, where JVP and TALFF are prohibited under the FMP.

Comment 6: One commenter was concerned about the potential harvest of large amounts of river herring by foreign vessels fishing off North Carolina and Virginia.

Response: The Mid-Atlantic Fishery Management Council (Mid-Atlantic Council) has recommended restrictions for the 2001 Atlantic mackerel fishery that prohibit directed foreign fishing for Atlantic mackerel south of 37° 30′ N. lat. and that restrict river herring incidental catch to no more than 0.25 percent of the over-the-side transfers. Such restrictions are imposed by NMFS on a case-by-case basis as foreign fishing permits are issued. NMFS will consider placing the same restrictions on the 2001 Atlantic herring TALFF and JVP fishery as were recommended by the Mid-Atlantic Council, if it appears that potential catches of river herring would be a problem.

Comment 7: Two commenters questioned the conclusion in the FMP that 20 percent of the Area 2 harvest is composed of Area 1 herring that migrate to Area 2 in the winter. Based on this conclusion, the specifications for 2001 presume that 10,000 mt of the Area 2 TAC is Area 1 herring. One commenter stated that harvests in the Area 2 winter fishery yielded only 18,878 mt and 19,957 mt in 1999 and 2000, respectively. He also noted that preliminary landings through March 17, 2001, are only 10,970 mt from Area 2, compared to 15,669 mt for the same period in 2000. The commenters believed the correct estimate of Area 1 harvest from the Area 2 fishery should be 3,000–5,000 mt because the Area 2 TAC is unlikely to be fully harvested. They suggest this change would make available an additional 5,000–7,000 mt of Area 1 herring for harvest from Area 1A. One commenter estimated that an additional 7,000 mt would increase revenues to the herring fleet by $770,000.

Response: The New England Council, in its 1999 Stock Assessment and Fishery Evaluation (SAFE) report, indicated that there is no new information on the distribution or relative size of herring spawning components that warrants a revision to the distribution of the TAC. The New England Council, in its September 8, 2000, submission of the recommended annual specifications, used the 1999 SAFE report and other information available in determining that a 50,000 mt TAC is appropriate for Area 2. The FMP, however, allows for an inseason adjustment of the TAC distribution if new information becomes available. If the commenters have new information that would support an adjustment to the 2001 TAC distribution, they should present this information to the New England Council for further analysis. The New England Council could recommend an inseason adjustment to the Area 1 and Area 2 TACs, if it believes it is appropriate. Such an adjustment, which transferred TAC from Area 1B to Area 1A, was made in 2000 based on additional information that became available to the New England Council during the 2000 fishing year.

Comment 8: One commenter suggested that NMFS require foreign vessels to purchase JVP equal to its TALFF allocation.

Response: As discussed in the preamble to the proposed rule, the New England Council has recommended that a foreign vessel be allowed to harvest 25 percent of its TALFF allocation, but before release of additional TALFF, the vessel would be required to receive 25 percent of its JVP allocation or provide proof for why this was not possible, such as bad weather. This condition appears to strike an appropriate balance between creating an incentive for foreign vessels to participate in the JVP fishery and restricting foreign vessels from exploiting their TALFF allocation to the detriment of U.S. interests. NMFS, nevertheless, will consider the commenter's suggestion and the New England Council's recommendation when it issues authorization to commence JVP or TALFF operations, including conditions and restrictions for individual foreign fishing vessels.

Classification

This final rule has been determined to be not significant for purposes of Executive Order 12866.

Because this final rule only establishes either year-long quotas for Atlantic herring to be used for the sole purpose of closing the fishery when the quotas are reached and does not establish any requirements for which a regulatory entity must come into compliance, it is unnecessary to delay for 30 days the effective date of this final rule. Therefore, the Assistant Administrator for Fisheries, NOAA, finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delayed effectiveness period for the 2001 Atlantic herring specifications.

NMFS determined that this action is consistent to the maximum extent practicable with the enforceable policies of the approved coastal management programs of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, New Jersey, Delaware, Maryland,

Virginia, and North Carolina. This determination was submitted for review by the responsible state agencies on November 14, 2000, under section 307 of the Coastal Zone Management Act. Rhode Island, Delaware, and Pennsylvania concurred with this determination. New Jersey disagreed with NMFS' determination for Atlantic herring and advocated that the specification of TALFF is inconsistent with the economic protection provisions of their coastal management program vis-a-vis employment and financial opportunities for commercial, charter, and party vessels. NMFS and the New England Council disagree. The TALFF allocation is intended to foster JVPs which could involve vessels from New Jersey. This will move the fishery toward achieving the OY from the fishery. Further, the administrative record underlying this proposal reasonably supports the conclusion that foreign-caught Atlantic herring will not compete with Atlantic herring processed and exported by domestic businesses. Because no response was received from Maine, New Hampshire, Massachusetts, Connecticut, New York, Maryland, Virginia, and North Carolina, state concurrence on consistency is inferred.

NMFS prepared an FRFA for this action, which includes comments on the IRFA, responses contained herein, and a summary of the analyses done in support of these specifications. A copy of the FRFA is available from NMFS (see **ADDRESSES**). The preamble to the proposed rule included a detailed summary of the analyses contained in the IRFA, and that discussion is not repeated in its entirety here. A summary of the FRFA follows:

A description of the reasons why action by the agency is being considered and the objectives of the action are explained in the preamble to the proposed rule and are not repeated here. This action does not contain any collection-of-information, reporting, or recordkeeping requirements. It will not duplicate, overlap, or conflict with any other Federal rules. This action is taken under authority of the Magnuson-Stevens Fishery Conservation and Management Act and regulations at 50 CFR part 648.

Public Comments

Fifty-two public comments were received on the proposed rule to implement the 2001 herring specifications, but none of them were specific to the IRFA. Commenters were concerned with possible economic impacts to the American lobster fishery (Comment 5), which are discussed below, and with the potential of foregone revenue to the herring fleet associated with a potential increase in Area 1A TAC (Comment 7). NMFS addressed these comments in the Comments and Responses section of the preamble to the rule.

Number of Small Entities

All of the affected businesses (fishing vessels and dealers) qualify as small entities under the standards described in NMFS guidelines. There were 2,215 vessels, 6 known processors, and 72 known dealers participating in the fishery in 1999.

Minimizing Economic Impacts on Small Entities

The FRFA and Comment 5 in the Comments and Responses section of this rule discuss potential economic impacts on the lobster bait market that could result from vessels supplying JVP operations, as opposed to domestic shoreside processors and bait dealers. The magnitude of any economic impact to shoreside processors due to the specification of JVP (enhanced by a specification of TALFF) is uncertain. A reduction in supply of herring to shoreside processors could result in an increase in the cost of herring to shoreside processors or bait dealers. However, as noted in the response to Comment 5, the JVP allocation is only 4 percent of the allowable harvest, leaving 96 percent of the allowable harvest available to be sold as bait or otherwise processed shoreside, including the entire TAC in Areas 1A and 1B, where JVP and TALFF are prohibited under the FMP.

Authority: 16 U.S.C. 1801 *et. seq.*

Dated: May 22, 2001.

John Oliver,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–13254 Filed 5–22–01; 3:00 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 102
Friday, May 25, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NE–46]

Airworthiness Directives; Rolls-Royce Corporation (Formerly Allison Engine Company) AE 3007 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration (FAA) proposes to supersede an existing airworthiness directive (AD), applicable to certain Rolls-Royce Corporation (formerly Allison Engine Company) AE 3007 series turbofan engines. That AD currently requires removal of certain compressor cone shafts from service before exceeding new cyclic life limits and replacement with serviceable parts. This proposal would require increasing the cyclic life limit for certain serial numbers of new compressor cone shafts, part number (P/N) 23070729, that are used on AE3007A1/3 and AE3007A1P engines. This proposal is prompted by recent approved changes in engineering and manufacturing processes for new compressor cone shafts P/N 23070729. The actions specified by the proposed AD are intended to prevent low-cycle fatigue (LCF) failure of cone shafts, which could result in an uncontained engine failure and damage to the airplane.

DATES: Comments must be received by July 24, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–46–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: *9-ane-adcomment@faa.dot.gov.* Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Michael Downs, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Avenue, Des Plaines, IL 60018; telephone: (847) 294–7870, fax: (847) 294–7834

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NE–46–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–46–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

On April 27, 2000, the FAA issued AD 2000–09–05, Amendment 39–11714 (65 FR 26121, May 5, 2000), to require removal of certain compressor cone shafts from service before exceeding new cyclic life limits, and replacement with serviceable parts. That action was prompted by additional testing and low-cycle fatigue (LCF) life analysis that substantiated lower cyclic lives than originally determined. That condition, if not corrected, could result in LCF failure of compressor cone shafts, uncontained engine failure, and damage to the airplane. Since the issuance of that AD, the manufacturer has made changes to the engineering and manufacturing processes for new cone shafts, P/N 23070729, that increase the cyclic life limit, based on approved FAA and Rolls-Royce methodology for establishing cycle life.

FAA's Determination of an Unsafe Condition and Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other Rolls-Royce Corporation AE 3007 series turbofan engines of this same type design, the proposed AD would revise AD 2000–09–05 to require increasing the cyclic life limit for certain serial numbers of new compressor cone shafts, part number (P/N) 23070729, that are used on AE3007A1/3 and AE3007A1P engines.

Economic Impact

There are approximately 598 engines of the affected design in the worldwide fleet. The FAA estimates that 364 engines installed on aircraft of U.S. registry would be affected by this proposed AD, that it would take approximately 150 work hours per engine to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $3,921 per engine. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $4,703,244.

Regulatory Impact

This proposed rule does not have federalism implications, as defined in

Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this proposed rule.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–11714 (65 FR 26121, May 5, 2000), and by adding a new airworthiness directive (AD), to read as follows:

Rolls-Royce Corporation (formerly Allison Engine Company): Docket No. 99–NE–46–AD. Supersedes AD 2000–09–05, Amendment 39–11714.

Applicability

This AD is applicable to Rolls-Royce Corporation (formerly Allison Engine Company) models AE 3007A, AE 3007A1, AE 3007A1/1, AE 3007A1/2, AE 3007A1/3, AE 3007A1P, and AE 3007C turbofan engines, with compressor cone shafts, part numbers (P/Ns) 23050728 and 23070729, installed. These engines are installed on but not limited to EMBRAER EMB–135 and EMB–145 series and Cessna 750 series airplanes.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (h) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance

Compliance with this AD is required as indicated, unless already done.

To prevent low-cycle fatigue failure of cone shafts, which could result in an uncontained engine failure and damage to the airplane, accomplish the following:

Removal From Service

(a) For Rolls-Royce Corporation model AE 3007A engines, remove cone shafts from service prior to accumulating 9,500 cycles-since-new (CSN) and replace with serviceable parts.

(b) For Rolls-Royce Corporation model AE 3007C engines, remove cone shafts from service prior to accumulating 14,500 CSN and replace with serviceable parts.

(c) For Roll-Royce Corporation models AE 3007A1, AE 3007A1/1, and AE 3007A1/2 engines, remove cone shafts from service prior to accumulating 7,500 CSN and replace with serviceable parts.

(d) For Rolls-Royce Corporation model AE 3007A1/3 engines:

(1) With compressor cone shafts P/N 23070729, serial number (SN) MM78599, MM78615, MM78632, MM78650, MM78651, MM78652, MM78653, MM78654, MM78655, MM78656, MM78657, MM78658, MM78659, MM78660, MM78661, MM78662, MM78663, MM78665 or higher, remove cone shafts from service prior to accumulating 9,300 CSN and replace with serviceable parts.

(2) With compressor cone shafts P/N 23050728, or P/N 23070729 having other than the S/N's listed in paragraph (d)(1) of this AD, remove cone shafts from service prior to accumulating 3,500 CSN and replace with serviceable parts.

(e) For Rolls-Royce Corporation AE 3007A1P engines:

(1) With compressor cone shafts P/N 23070729, SN MM78599, MM78615, MM78632, MM78650, MM78651, MM78652, MM78653, MM78654, MM78655, MM78656, MM78657, MM78658, MM78659, MM78660, MM78661, MM78662, MM78663, MM78665 or higher, remove cone shafts from service prior to accumulating 7,300 CSN and replace with serviceable parts.

(2) With compressor cone shafts P/N 23050728, or P/N 23070729 having other than the SN's listed in paragraph (e)(1) of this AD, remove cone shafts from service prior to accumulating 2,400 CSN and replace with serviceable parts.

New Life Limits

(f) Paragraphs (a), (b), (c), (d) and (e) of this AD establish new, lower life limits for cone shafts, P/Ns 23050728 and 23070729.

(g) Except for the provisions of paragraph (h) of this AD, no cone shafts, P/Ns 23050728 and 23070729, may remain in service exceeding the life limits established in paragraphs (a), (b), (c), (d) and (e) of this AD.

Alternative Method of Compliance

(h) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Chicago Aircraft Certification Office (ACO). Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Chicago ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Chicago ACO.

Special Flight Permits

(i) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on May 18, 2001.

Diane S. Romanosky,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–13183 Filed 5–24–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD07–01–017]

RIN 2115–AE84

Regulated Navigation Areas and Limited Access Areas; Miami River and Tamiami Canal, Miami-Dade County, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The Coast Guard proposes to amend the Regulated Navigation Area for the Miami River and Tamiami Canal to improve navigational safety on the River, prevent marine casualties and ensure the river's continued ability to serve as a main artery for flood control. This proposed rule would prohibit vessels greater than 200 gross tons from laying up in an inoperable status on the Miami River or Tamiami Canal during hurricane season from June 1 until November 30 annually.

DATES: Comments and related material must be received on or before July 24, 2001.

ADDRESSES: You may mail comments and related material to Commanding Officer, U.S. Coast Guard, Marine Safety Office, 100 MacArthur Causeway, Miami, FL 33139. Captain of the Port Miami maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the above address between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LTJG Heath Hartley, Division Officer, Coast Guard Marine Safety Office Miami, Waterways Management at (305) 535–8762.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD07–01–017), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Commanding Officer at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced in the **Federal Register**.

Background and Purpose

In 1997 we issued regulations, after notice and comment, to control the practice of vessel rafting and ensure a safe minimum channel width along the Miami River and Tamiami Canal. (62 FR 50511, September 26, 1997). These regulations are contained in 33 CFR 165.726. The current regulations do not address vessels that are inoperable because of repairs, equipment or manning deficiencies, or judicial proceedings. This is often referred to as lay up status. The Coast Guard proposes to amend the current regulations to minimize potential environmental and navigational hazards posed by these vessels within the Port during the annual hurricane season.

South Florida's official hurricane season runs from June 1 until November 30, during which time the Coast Guard and maritime community are on a heightened alert for approaching heavy weather patterns. Along the 5.5 miles of interior waterway on the Miami River and Tamiami Canal, many commercial vessels involved in trade between Miami and the Caribbean are routinely placed out of service either for repairs or due to judicial and/or financial injunctions. While in lay up status, these vessels are typically inoperable mechanically, rendering them unable to depart the Port when heavy weather is imminent and evacuations are ordered. Commercial vessels remaining on this waterway after a Captain of the Port order to depart due to heavy weather create a substantial pollution threat to the environment and these vessels are at risk of breaking their moorings and becoming navigational hazards, restricting or closing the narrow waterway and threatening the viability of Florida's fifth largest Port. Amending the regulations to prohibit inoperable vessels from laying up on the Miami River and Tamiami Canal during the annual hurricane season will mitigate the potential environmental and navigational hazards which threaten the waterway during the hurricane season.

Discussion of Proposed Rule

The proposed rule would require all vessels greater than 200 gross tons to be capable of leaving the waterway within 24 hours notice during hurricane season. This will minimize the potential environmental and navigational hazards that could result from hurricane conditions and ensure that vessels can depart the port when heavy weather is imminent.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

This proposed rule would only affect those vessels over 200 gross tons that are incapable of leaving the waterways within 24 hours notice. This relatively small number of vessels can make alternate arrangements in advance. Further, vessels that desire to remain can request approval from the Captain of the Port. Requests will be evaluated on a case by case basis.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed rule would have a significant economic effect upon a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which might be small entities, vessel owners or operators intending to lay up or leave their vessels inoperable on the Miami River or Tamiami Canal during some portion of the hurricane season from June 1 until November 30.

This proposed rule would not have a significant economic impact or a substantial number of small entities for the following reasons. The proposed rule would be in effect for six months, and vessel owners could schedule lengthy maintenance outside of the hurricane season. Further, vessels intending to lay-up during hurricane season could locate, in advance, other less hazardous berthing. Vessels that can depart within 24 hours notice will not be affected.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this proposed rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–

121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LTJG Heath Hartley at (305) 535–8762 for assistance in understanding and participating in this rulemaking.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State and local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Environment

We considered the environmental impact of this proposed rule and concluded that, under, Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Part 165, as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. In § 165.726 a new paragraph (b)(9) is added to read as follows:

§ 165.726 Regulated Navigation Areas; Miami River, Miami, Florida.

* * * * *

(b) * * *

(9) All vessels greater than 200 gross tons shall be operational and capable of leaving the Miami River and Tamiami Canal within 24 hours of notice during hurricane season from June 1 until November 30 annually.

* * * * *

Dated: May 7, 2001.

G.W. Sutton,

Captain, U.S. Coast Guard, Commander, Seventh Coast Guard District, Acting.

[FR Doc. 01–13285 Filed 5–24–01; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9, 122, 123, 124, and 125

[FRL–6981–1]

Notice of Data Availability; National Pollutant Discharge Elimination System—Regulations Addressing Cooling Water Intake Structures for New Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; Notice of data availability.

SUMMARY: On August 10, 2000, EPA proposed standards for cooling water intake structures at new facilities to implement section 316(b) of the Clean Water Act (CWA) (65 FR 49060). This notice presents a summary of the data EPA has received or collected since proposal, an assessment of the relevance of the data to EPA's analysis, some modified technology options suggested by commenters, and an alternative approach suggested by a trade group representing the utility industry. EPA solicits public comments about any of the information presented in this notice and the record supporting this notice.

DATES: Comments on this notice of data availability must be received or postmarked on or before midnight June 25, 2001.

ADDRESSES: Mail public comments regarding this notice of data availability to: Cooling Water Intake Structure (New Facilities) Proposed Rule Comment Clerk—W–00–03, Water Docket, Mail Code 4101, EPA, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. Deliver your comments in person (including overnight mail) to the Cooling Water Intake Structure (New Facilities) Proposed Rule Comment Clerk—W–00–03, Water Docket, Room EB 57, 401 M Street, SW, Washington, DC 20460. You may also submit comments electronically to *ow-docket@epa.gov.* Please submit any references cited in your comments. Please submit an original and three copies of your written comments and enclosures. For additional information on how to submit comments, see **SUPPLEMENTARY INFORMATION**, How May I Submit Comments?''

FOR FURTHER INFORMATION CONTACT: Deborah G. Nagle at (202) 260–2656. The e-mail address for the above contact is *rule.316b@epa.gov.*

SUPPLEMENTARY INFORMATION:

Contents

I. Purpose of This Notice

On August 10, 2000 (65 FR 49060), EPA proposed standards for cooling water intake structures at new facilities to implement section 316(b) of the Clean Water Act (CWA) (see #2–001 in the Docket). EPA has received numerous comments and data submissions concerning the proposal and has collected additional data. In this notice, EPA is making these new data available for comment and is assessing the relevance of the data to EPA's analysis. Since the end of the comment period, EPA also received an alternative regulatory approach suggested by a trade group representing the utility industry which is discussed in this notice and is included in the record for the rule. EPA has initially reviewed this approach and, in this notice, suggests modifications to the approach that are being considered for the final rule. EPA solicits public comments regarding any of the information presented in this notice and the record supporting this notice.

II. Data Obtained Since the Proposal

A. Regulatory Thresholds

EPA proposed that the term ''cooling water intake structure'' means the total physical structure and any associated constructed waterways used to withdraw water from waters of the U.S., provided that at least twenty-five (25) percent of the water withdrawn is used for cooling purposes (see proposed 40 CFR 125.83, 65 FR 49116). A number of commenters asserted that EPA did not provide a rational basis in its record for proposing that use of 25% of intake flow for cooling should determine whether an intake structure is a ''cooling water intake structure.'' In response to these comments, EPA requests comment on preliminary data the Agency recently gathered from its detailed questionnaire for existing facilities. These data document the percentage of manufacturing facilities that use the following percentages of water withdrawn from waters of the U.S. for cooling purposes: more than 5% (87% of the manufacturing facilities); more than 10% (82% of manufacturing facilities); more than 15% (77% of manufacturing facilities); more than 20% (74% of manufacturing facilities); more than 25% (68% of manufacturing facilities); and more than 50% (49% of manufacturing facilities). See ''Percentages of In-scope Facilities Using Various Proportions of Their Intake Water for Cooling Purposes' (#2–002 in the Docket). EPA will continue refining these data by, as necessary, calling back certain facilities to clarify any data quality concerns. The Agency will use these data to estimate the effect of alternative thresholds on the amount of new cooling water subject to this rulemaking. EPA will determine whether to revise the definition of a cooling water intake structure for the final new facility regulation based on this information, other information noticed today on adverse environmental impact (Section E below), waterbody sensitivity (Section D below) and proposed limitations on intake capacity based on waterbody flow rates (Section F below) and on information already in the record.

To improve the definition in EPA's proposal (65 FR 49066–49067), EPA requests comment on two alternatives:

- New facility intake structures not subject to this rule because of the amount of cooling water they use are not considered cooling water intake structures for regulatory purposes and thus would not be subject to section 316(b) of the CWA; or
- New facility intake structures not subject to this rule because of the amount of cooling water they use may be subject to requirements established by permit authorities under CWA section 316(b) on a case-by-case basis.

EPA's proposed regulations would apply to new facilities that have a cooling water intake structure with a design intake capacity of greater than or equal to two (2) million gallons per day (MGD) of source water. 65 FR 49067–49068. Since proposal, EPA collected preliminary data from its detailed questionnaire for existing facilities. These data document the percentage of existing facilities constructed in the last 10 years that would be covered by national regulation at the following alternative regulatory flow thresholds: 2 MGD, 5 MGD, 10 MGD, 15 MGD, 20 MGD, 25 MGD, 30 MGD, 50 MGD and 100 MGD. The data analysis shows that 58% of the manufacturers, 70% of the nonutilities and 100% of the utilities built in the last 10 years would be regulated if the threshold was 2 MGD as proposed in the new facility rule. At the 2 MGD threshold 99.7% of the total flow would be covered. At a threshold of 15 MGD, 32% of the manufacturers, 29% of the nonutilities and 50% of the utilities would be covered, as would 97.3% of the total flow. The total flow covered remains relatively high, because the large flows from a small number of utility facilities dominate the total flow. At a threshold of 25 MGD, 18% of the manufacturers, 17% of the nonutilities and 50% of the utilities built in the last 10 years would be regulated, covering 94.9% of the total flow. By industry category, 71.4% of the flows from manufacturers, 74.3% of the flows from nonutilities, and 99.5% of the flows from utilities would be regulated. See ''Percentages of In-scope Facilities Meeting Various Design Intake Flow Thresholds'' (see #2–003 in the Docket).

The Agency also is considering State of Maryland regulations for cooling water intake structures (see COMAR 26.08.03, #2–004 in the Docket). These regulations exclude cooling water intake structures withdrawing less than 10 MGD if the volume of water is less than 20 percent of the design stream flow for nontidal waters or less than 20 percent of the annual average net flow past the intake which is available for dilution for tidal waters. EPA intends to consider this new information, as well as the information discussed and included in the record at proposal and any other relevant sources of information, to establish a minimum flow threshold in final regulations.

B. Industry Profile for Utility and Nonutility Electricity Generators

EPA intends to consider basing its estimate of new electricity-generating facilities for the final rule, in part, on a revised Department of Energy (DOE) forecast for growth in demand for electricity over the next twenty years. (See Annual Energy Outlook 2001, DOE, Energy Information Agency DOE/EIA #6383 (2001), #2–005 in the Docket.) At the time of proposal, DOE projected a 1.3% annual increase in growth in demand for electricity over the next twenty years. Now, due in part to a revision in the methodology used by the Department of Commerce to calculate gross domestic product, DOE projects a 1.8% rate of increase in growth in demand for electricity over the next twenty years. DOE also projects that new electricity generating capacity will be needed sooner than previously forecast. Of the new generating capacity needed in the next 20 years, DOE

projects that 22 Gigawatts will be supplied by coal-fired steam electric generating facilities, and that 209 Gigawatts will be supplied by natural gas-fired, combined-cycle facilities.

1. Profile for Combined-Cycle Electric Generating Facilities

DOE does not gather information on specific, planned new electricity-generating facilities and does not estimate the number of facilities that utility and nonutility power producers will build to meet increases in demand. Thus, EPA is considering, as at proposal, using the NEWGen database, a proprietary database owned by Resources Data International, Inc., to estimate the average size of new combined-cycle facilities. (See Engineering and Economic Analyses for the Proposed Section 316(b) New Facility Rule, EPA–821–R–00–019 (#1–5046–PR in the Docket) for more information on the methodology EPA used to project new facilities and their compliance costs at proposal.) To estimate the total number of new combined-cycle facilities that will be built over the next twenty years, EPA is considering dividing DOE's new forecast of demand for new combined-cycle electricity generating capacity over the next twenty years by the average size of new, U.S. combined-cycle facilities in the February 2001 version of the NEWGen database. EPA also may use the February 2001 NEWGen database to estimate the percentage of new combined-cycle facilities that have characteristics that would make them subject to a section 316(b) rule for new facilities (e.g., do they plan to withdraw cooling water from waters of the U.S. in amounts greater than the regulatory threshold). For costing purposes, EPA is considering using the methodology used at proposal (described Chapters 5 and 6 and Appendices A and B of Economic and Engineering Analyses of the Proposed Section 316(b) New Facility Rule, EPA–821–R–00–019, August 2000) using the February 2001 NEWGen database to estimate the baseline of cooling water intake structure technologies that would be in place at new combined-cycle facilities without final regulations.

Following proposal, EPA received comment from the Utility Water Act Group (UWAG), an association of individual electric utilities and three national trade associations of electric utilities (see W–00–03, 316(b) Comments 1.68). UWAG objected to the Agency's use of the NEWGen database to project the number of combined-cycle facilities that would be subject to the regulations and the baseline of intake structure technologies without making this proprietary database available to the public. On September 25, 2000, EPA added information to the rulemaking record (see #1–6001–AD, Identification of NEWGen Facilities for the Economic Analysis for the proposed section 316(b) New Facility Rule) so that the public could determine which facilities the Agency considered in developing its profile of new combined-cycle facilities and comment on additional facilities that the Agency should have considered. EPA is now reviewing information provided by the Edison Electric Institute (EEI) (see W–00–03, 316(b), Comments 1.69) regarding additional combined-cycle facilities that EEI asserts would be subject to the proposed regulations.

At proposal, the NEWGen database contained information about 94 combined-cycle facilities. EPA is now investigating the 323 combined-cycle facilities documented in the February 2001 NEWGen database. Because the Agency received this information very recently, EPA has not completed its analysis of these combined-cycle facilities. Therefore, EPA cannot provide additional information at this time on:

- The total number of combined-cycle facilities the Agency projects may bear costs to comply with final new facility regulations
- The average size of new combined-cycle facilities
- The intake structure technologies likely to be in place at these facilities absent final regulations.

However, these data appear to indicate that, based on changes in the NEWGen database and DOE's new forecast for electricity from new combined-cycle facilities, more facilities than estimated at proposal would need to bear costs to comply with final regulations similar to the proposal. EPA has provided summary information on the 323 combined-cycle facilities in the February 2001 NEWGen database, so that the interested public can determine which facilities the Agency is considering as it develops a profile of new combined-cycle facilities for final regulations (see #2–006 in the Docket). As at proposal, EPA solicits public comment on any additional facilities that the public believes will be subject to this rule. Specifically, the Agency requests that members of the public provide the Agency with detailed information on specific, new combined-cycle facilities that may be built after the end of calendar year 2001, and may be required to comply with final new facility regulations. EPA seeks information on facility size (Megawatt output), facility cost, source of cooling water, ownership, location, and any plans for where the cooling water intake structure will be located within the source water body, what the capacity of the cooling water intake structure will be, and what technologies would be used to reduce impingement and entrainment independent of final regulations.

As a supplement to the approach described above, EPA intends to consider publicly-available information from the 1998 Annual Electric Generator Reports that utility and nonutility power generators submit to DOE (see data from Forms EIA–860A and EIA–860B, Annual Electric Generator Report-1998, Energy Information Administration (EIA), U.S. Department of Energy, #2–007 in the Docket), as well as data from the section 316(b) Questionnaire EPA sent to existing facilities. Specifically, EPA is evaluating data from the EIA–860 databases for each utility and nonutility power plant that EPA surveyed to estimate the average size of new combined-cycle facilities. To estimate average plant size, EPA also is evaluating EIA's Assumptions to the Annual Energy Outlook 2001, DOE/EIA #0554(2001) (see #2–008 in the Docket), which lists the average size of future combined-cycle and coal units as 400 MW and states that most plants are likely to have more than one unit. EPA also is evaluating the section 316(b) survey responses to estimate the number of new facilities likely to be subject to regulation and the distribution of cooling systems and intake structure technologies likely to be in place at these facilities in the absence of new regulations. (See Newbert, Riley, and Mike Fisher, Abt Associates. Memo on: Analysis of Information Regarding Average Plant Size, In-scope Rate, and Distribution of Baseline Cooling System Types to Lynne Tudor, et.al., USEPA. April 24, 2001, #2–009 in the Docket.) These survey data indicate that, depending on whether one analyzes only the detailed questionnaire data or the detailed questionnaire in combination with the screener questionnaire data, between 44% and 59% of the coal plants constructed in the last 20 years would be covered by the proposed new facility regulations. Of the combined cycle plants surveyed, 15% would be covered by the proposed regulations. Of these facilities, 73% of the coal-fired plants and 100% of the combined-cycle plants built in the last 20 years have a recirculating cooling

system and would meet the proposed requirement to reduce intake capacity to a level commensurate with use of a closed-cycle recirculating cooling system. For coal-fired facilities built in the last 10 years, the percentage of facilities that would be covered that have closed-cycle recirculating cooling systems increases to 88%. Looking at utilities only, these data show that 54% of the coal-fired plants and 15% of the combined-cycle plants built in the last 20 years would be covered by the proposed regulations. Of the 33 utilities built in the last 20 years that would be covered (if they were new facilities), 66% of the coal-fired plants and 100% of the combined-cycle plants have a closed-cycle recirculating cooling system. Seventy-five percent of the utility coal-fired plants built in the last 10 years that would be covered by the proposed regulations have a closed-cycle recirculating cooling system.

2. Profile for Coal-Fired Electric Generating Facilities

At proposal, the NEWGen database contained no information on new coal-fired steam electric generating facilities. For the years 2001–2010, DOE's Annual Energy Outlook 2000 projected limited new coal-fired steam electric generating capacity. Thus, EPA did not project any new coal facilities for 2001–2010. For the years 2011–2020, EPA used DOE's projected demand for new capacity from coal-fired facilities and information from the following sources to estimate the number of new coal-fired power plants that had characteristics that would make them subject to the rule and to estimate what cooling water intake structure technology would be in place at these plants absent final regulation:

- Form EIA–767, Steam Electric Plant Operation and Design Report, Energy Information Administration, U.S. Department of Energy, 1994, 1997. This database contains data on air and water quality from steam-electric power plants with generating capacities of 100 megawatts (MW) or greater. A small subset of the data is provided for steam electric power plants with generating capacity between 10 and 100 MW. An electronic copy of this database can be found in #2–010 in the Docket.
- Form EIA–860, Annual Electric Generator Report, Energy Information Administration, U.S. Department of Energy, 1994, 1997. Since EIA–767 contains only detailed information on utility facilities greater than 100 MW, this database was used to provide information on utility facilities less than 10 MW and to provide limited technical data on facilities between 10 and 100 MW. An electronic copy of this database can be found in #2–010 in the Docket.
- Power Statistics Database, Utility Data Institute, McGraw-Hill Company, 1994. This data was combined with data from DOE's Stream Electric Plant Operation and Design Report to provide more specific details on cooling water intake structure, cooling water system, and water body characteristics.

For the final rule, EPA is considering using a similar methodology to project the average size of new coal-fired facilities, the number that would be subject to the rule, and the baseline of intake structure technology that would be in place absent final regulations, but would supplement the DOE data described above with data from the section 316(b) survey of cooling water use by existing facilities. To support such an analysis, EPA is developing profiles as shown in the table ''Surveyed Coal Plants, By Age of Oldest Unit and In-Scope Status'' in #2–009 in the Docket. The Agency is also examining 17 coal-fired steam electric generating facilities in the February 2001 NEWGen database. EPA is actively seeking information from vendors and other sources of engineering information (see #2–011A–B in the Docket).

2–011A Couch, Gordon. OECD Coal-Fired Power Generation—Trends in the 1990s, IEA Coal Research The Clean Coal Centre, 1997.

2–011B Lammers, Thomas F. Steam Plant Operation, 7th Edition, McGraw-Hill, New York, New York, 1988.

C. Industry Profile for Manufacturers

Following proposal, EPA received comment from the Department of Energy, the International Association of Drilling Contractors, the Offshore Oil Operators Committee, the American Petroleum Institute, and from individual companies expressing concern that the proposed regulations could adversely impact offshore and coastal oil and gas drilling operations that use cooling water. Among other concerns, these commenters stated that:

- Offshore and coastal oil and gas drilling facilities have much more limited technology options for addressing any adverse environmental impact of cooling water intake than land-based facilities;
- Under current regulations (40 CFR 435.11), existing mobile oil and gas extraction facilities are considered new sources when they operate on new development wells and, could be required to perform costly retrofits in order to comply with the 0.5 ft/s velocity standard if they become subject to the proposed requirements for cooling water intake structures at new facilities; and
- Higher cooling water intake velocities are necessary in marine waters to control biofouling of cooling water intake structures.

At proposal, EPA had not considered or projected impacts on this industrial category. EPA seeks additional information on cooling water use by offshore and coastal oil and gas extraction facilities (e.g., drill ships, semi-submersibles, jack-ups, tension-leg platforms, spars, etc.). EPA requested additional information from the commenters (see #2–012A–B in the Docket). The Agency has also sought information from the Department of Interior's Minerals Management Service and from the U.S. Coast Guard. This new information suggests that mobile offshore and coastal drilling units use volumes of cooling water that could make them subject to the proposed regulations. However, little information is available about impingement and entrainment associated with this use of cooling water or the costs or achievability of measures to reduce any adverse environmental impact. EPA requests that the public provide peer-reviewed data (e.g., journal articles), operator/drilling contractor field data, and/or design schematics for mobile offshore drilling units to support or dispute assertions made by these commenters. Specifically, EPA would like additional reference data for the following areas:

- Cooling water intake structure capacities (e.g., volumes of water used per unit of time) and velocities (specifically whether measured on a through-screen or approach velocity basis) for various types of offshore and coastal oil and gas extraction facilities;
- Velocity requirements and other preventative measures (e.g., type and amount of chemical treatment, backlashing) for inhibiting growth of marine organisms;
- Potential issues (e.g., hull design implications, load paths, fatigue, risks to divers) related to either: (1) retrofitting sea chests and other cooling water intake structures for existing offshore and coastal oil and gas extraction facilities; or (2) outfitting newly-built offshore and coastal oil and gas extraction facilities with cooling water intake structures consistent with the proposed requirements for new facilities;
- Estimated costs to retrofit existing facilities or to outfit new facilities as described in the preceding bullet, with as much detailed information as possible regarding the basis for the estimates;

• Potential scheduling impacts on new or existing mobile offshore and coastal oil and gas extraction facilities due to section 316(b) requirements for new facilities; and

• What issues or costs, if any, would make technologies for zero use of cooling water unavailable or economically impracticable on offshore and coastal oil and gas extraction facilities.

• Any impingement or entrainment data collected at coastal or offshore oil and gas extraction facilities.

EPA is considering not including within the scope of this Phase I rule offshore and coastal oil and gas operations. Instead of addressing oil and gas operations as part of this rulemaking, EPA is considering addressing oil and gas operations as part of either the Phase II or Phase III rulemaking. Alternatively, if EPA addresses offshore and coastal oil and gas facilities in this Phase I rule, EPA is considering a higher regulatory threshold for these facilities (e.g., 25 or 50 MGD).

2–012A Johnston, Carey A. USEPA. Memo to File RE: Notes from April 4, 2001 Meeting with US Coast Guard. April 23, 2001.

2–012B Johnston, Carey A. USEPA. Memo to File RE: Summary of Email Correspondence with MMS on MODU CWIS. April 2001.

D. New Data and Refinements to the New Facility Framework Based on Waterbody Type

1. Tidal Rivers and Estuaries

EPA received many comments about its proposal to have the most stringent technology requirements apply in all parts of estuaries and tidal rivers (see proposed 125.84(d), 65 FR 49118). Some commenters assert that adverse environmental impact can be minimized in some, if not all, parts of tidal rivers and estuaries with less protective technologies than EPA proposed. Some of these commenters observe that many of the aquatic organisms that inhabit tidal rivers and estuaries have reproductive strategies that rely on open-water dispersal of a very large number of eggs and larvae and that, even in the absence of impacts from a cooling water intake structure, most of the early life stages of these organisms do not survive to a reproductive age. Further, these commenters assert that increased survival of early life stages of these organisms can lead to increased competition among later-stage juvenile and adult organisms and actually reduce, not increase, populations of these organisms (see also the discussion of options for defining adverse environmental impact later in this notice). In response to comments, EPA further examined this issue and requests comment on the following documents found in #2–013A–O in the Docket. These documents include information on larval densities in selected estuaries and tidal rivers, impingement and entrainment rates for facilities located in these areas, conditional mortality rates of organisms in selected estuary and tidal rivers (requires calculation of larval densities), and discussions of the life history and reproductive strategies of marine and estuarine organisms that are relevant to EPA's consideration of whether these locations may be sensitive to impingement and entrainment impacts associated with cooling water intake structures. In the proposed rule EPA asserted that estuaries deserve the most stringent protection because of the abundance and diversity of aquatic life they harbor. Estuaries are also an important habitat for the vast majority of commercial and recreational important species of fin fish. Further, both EPA and commenters noted that the reproductive strategies of many estuarine species include pelagic or planktonic larvae. EPA invites comment on the documents which may support a judgment that the reproductive strategies of tidal river and estuarine species, together with other physical and biological characteristics of those waters, make these ecosystem waters particularly susceptible to cooling water intake structures. In addition to these documents, EPA notes that some of the new data discussed below (at Section E) regarding the assessment of adverse environmental impact, as well as information below regarding the susceptibility of non-tidal freshwater rivers and streams to cooling water intake structure impacts (at Section D.5.), also may be relevant in determining whether tidal rivers and estuaries are more sensitive to cooling water intake structures than some parts of other waterbodies.

2–013A Richkus, W., Versar, Inc. Memo to EPA RE: Vulnerability of Biota of Freshwater (Rivers, Lakes, Reservoirs) versus Marine (Tidal River, Estuary, Ocean) Habitats to Entrainment and Impingement Impacts. April 2, 2001.

2–013B Winemiller, K.O., and K.A. Rose. Patterns of life-history. Diversification in North American Fishes: Implications for Population Regulation. Canadian Journal of Fisheries and Aquatic Sciences 49: 2196–2218. 1992.

2–013C PSE&G. Renewal Application for Salem Generating Station Permit No. NJ00005622. Appendix F, Attachments 1 & 2. Baywide and In Plant Sampling Programs and Sampling Methods; and Model Methodologies and Common Input Parameters. March 1999.

2–013D PSE&G. Renewal Application for Salem Generating Station Permit No. NJ00005622. Appendix L, Data Sets. March 1999.

2–013E New York Department of Environmental Conservation. Draft Environmental Impact Statement for State Pollutant Discharge Elimination System for Bowline Point, Indian Point 2 & 3, and Roseton Steam Electric Generating Stations. December 1999.

2–013F Kurkel Patricia, NOAA. Letter to Deborah Hammond, EPA Region II RE: Review of Draft Permit (Salem Nuclear Generating Station). February 28, 2001.

2–013G ENSR and Marine Research Inc. for Entergy Nuclear Generation Company. Study of Winter Flounder Transport in Coastal Cape Cod Bay and Entrainment at Pilgrim Nuclear Power Station. 2000.

2–013H Boreman, J. and C.P. Goodyear. Estimates of Entrainment Mortality for Stripped Bass and Other Fish Species Inhabiting the Hudson River Estuary. American Fisheries Monograph 4: 152–160. 1988.

2–013I McHugh, J.L. and J.J.C. Ginter. Fisheries. MESA New York Bight Atlas Monograph. January 16, 1978.

2–013J Dixon, D.A., EPRI. Catalog of Assessment Methods for Evaluating the Effect of Power Plant Operations on Aquatic Communities. 1999.

2–013K Clark, J. and W. Brownell. Electric Power Plants in the Coastal Zone: Environmental Issues. American Littoral Society Special Publication No. 7. 1973.

2–013L Cacela, Dave, Stratus Consulting Inc. Memo to JT Morgan, EPA RE: Planned Analysis of Ambient Larval Densities and I&E. April 20, 2001.

2–013M Patrick, Ruth, Academy of Sciences. Testimony at Public Hearing on PSE&G Nuclear Generating Station Draft NPDES Permit. Pennsville, NJ. January 23, 2001.

2–013N Bigelow, H.B. and W.C. Schroeder. Fishes of the Gulf of Maine. Fishery Bulletin 74 of the US Fish and Wildlife Service. Volume 53. 1953.

2–013O Stratus Consulting, Inc. Memo to Blaine Snyder, Tetra Tech, Inc. RE: Estimation of Entrainment Using Icthyoplankton Samples.

EPA requests comment on the above documents.

2. Littoral Zone

EPA received many comments on EPA's proposed definition of ''littoral zone'' and its use of this concept to divide oceans, freshwater streams and rivers, and freshwater lakes and reservoirs, into areas where different suites of technologies are judged to be best technology available for minimizing adverse environmental impact. Many of these comments assert that EPA's proposed definition does not give a rationale for delineating water bodies into parts that are more or less sensitive to impacts of cooling water

intake structures. EPA requests comment on the following data and possible revisions to its approach for delineating more and less sensitive parts of waterbodies.

First, EPA is considering changing the term ''littoral zone,'' which has a relatively precise definition in limnology (the study of lakes) to another term such as ''area of potential high impact'' or ''productivity zone.'' This measure would avoid confusion with the long-standing use of ''littoral zone.'' On the other hand, EPA might not use a general term for areas with greater potential for adverse impacts and might define these areas on a waterbody-specific basis.

For example, the Agency might continue to define a sensitive area in oceans, as it did at proposal: ''the photic zone of the neritic region. The photic zone is that part of the water that receives sufficient sunlight for plants to photosynthesize. The neritic region is the shallow water or nearshore zone over the continental shelf.''

3. Revised definition of estuary and ocean

A number of commenters objected to EPA's proposal to define estuaries based, in part, on salinity concentrations (see ''estuary'' at proposed 40 CFR 125.83). In response to these comments, EPA requests comment on new data it has gathered (as described and compiled in #2–015A–G in the Docket) which provides methods for delineating estuaries. EPA is considering revising its definition of estuary to incorporate elements of the information described in these documents and requests comment on use of these data to revise the definition of estuary. EPA also requests comment on a revised definition of estuary based largely on the definition of estuary at proposed 40 CFR 125.83 that would read as follows: ''estuary means all or part of the mouth of a river or stream or other body of water having an unimpaired natural connection with open oceans and within which the seawater is measurably diluted with fresh water derived from land drainage. The salinity of an estuary exceeds 0.5 parts per thousand (by mass).''

Finally, EPA is considering and requests comment on a revised definition of oceans at proposed 40 CFR 125.83 to read as follows: ''ocean means marine waters seaward of the mean low tide mark or seaward of the waters defined as estuary waters.''

2–015A Dunham, Ray, California State Water Control Board. Memo to USEPA Office of Water, Office of Science and Technology RE: Methods for Delineating Estuary Boundaries. April 2000.

2–015B Shalowitz, A.L. and Michael W. Reed. Shore and Sea Boundaries: Internal Waters. Volume 3, Part 2, Chapter 6, page 222. 2000. (Available at: http://chartmaker.ncd.noaa.gov:80/hsd/shalowitz/part_two.pdf)

2–015C Shalowitz, A.L. and Michael W. Reed. Shore and Sea Boundaries: The Estuarine Ecosystem: Ecology of the Intertidal and Subtidal Area. Volume 2, Part 3, Chapter 1, pp. 259–293. 2000. (Available at: http://ww.csc.noaa.gov:80/otter/htmls/ecosys/ecology/estuary.htm)

2–015D National Oceanographic and Atmospheric Administration. Coastal Change Analysis Program (C–CAP): Guidance for Regional Implementation. 2001. (Available at: http://www.csc.noaa.gov:80/products/sf/html/proto.htm)

2–015E National Oceanographic and Atmospheric Administration. Coastal Change Analysis Program (C–CAP): Guidance for Regional Implementation. Appendix 3. Description of Cowardin et al. Systems and Classes. 1979. (Available at: http://www.csc.noaa.gov:80/products/sf/html/proto.htm#app3)

2–015F USEPA. Salinity. (Available at: http://www.epa.gov/owow/estuaries/monitor/chptr14.htm)

2–015G National Oceanographic and Atmospheric Administration. The Estuarine Ecosystem-Ecology of Tidal and Subtidal Areas. (Available at: http://www.csc.noaa.gov:80/otter/htmls/ecosys/ecology/estuary.htm)

4. Great Lakes

At 65 FR 49086, the Agency noted that the Great Lakes, like estuaries, have areas of high productivity and sensitive critical habitat that may need more stringent requirements than those proposed for lakes and reservoirs. One commenter asserted that there is no biological basis for treating the Great Lakes separately and further asserted that the communities in these lakes are probably less sensitive than those in other lakes. Since proposal, EPA has gathered additional information on the susceptibility of the Great Lakes system to impact from cooling water intake structures and may provide protections for the Great Lakes beyond those proposed for lakes and reservoirs. In #2–016A–C in the Docket, EPA has made available for comment information that supports the idea that the Great Lakes are a unique system that may deserve additional protection from the impact of cooling water intake structures. The Agency requests comment on this information and the position that the Great Lakes should be protected to a greater extent than other lakes and reservoirs.

2–016A Herdendorf, C.E. Great Lakes estuaries. Estuaries, 13(4): 493–503. 1990.

2–016B EPA. The Conservation of Biological Diversity in the Great Lakes Ecosystem: Issues and Opportunities. Prepared by The Nature Conservancy, EPA Great Lakes Program, Chicago, IL. 1999. (Available at http://www.epa.gov/glnpo/ecopage/issues.html)

2–016C EPA. Water Quality Guidance for the Great Lakes System: Supplementary Information Document (SID). EPA–820–B–95–001. 1995.

5. Freshwater Rivers and Streams

EPA is considering data that may support the proposition that the aquatic species predominant in freshwater rivers and streams have reproductive and life history strategies that generally make them less susceptible to the impact of cooling water intake structures. These data may demonstrate that the species in these systems are primarily demersal (bottom) and adhesive egg-laying or nest-building organisms. These species do not exhibit the planktonic (free-floating) egg- and larval-dispersal behaviors that may expose early life stages to impact from cooling water intake structures. One of these documents also contains assertions that freshwater fish populations are not harvested as extensively as marine fish, and that management practices for marine fish are slow to respond to over-exploitation. EPA invites comment on the following documents:

2–017A Wright, Jim, TVA. Memo to File RE: Ecological Reasons Why Freshwater River and Reservoir Systems Do Not Normally Experience Substantive Impact as a Result of Impingement and Entrainment.

2–017B Dixon, Doug, EPRI. Memo to File RE: Ecological Reasons Why Freshwater River and Reservoir Systems Do Not Normally Experience Measurable Environmental Impact as a Result of Impingement and Entrainment.

2–017C Karr, James R., et al., EPA. Habitat Preservation for Midwest Stream Fishes: Principles and Guidelines. 1983.

2–017D Lohner, Timothy W., American Electric Power. Letter to Tom Wall, EPA et al. RE: Final Report-Modeling of Possible 316(b) Effects on Selected Ohio River Fishes. April 20, 2001.

2–013A Richkus, W., Versar, Inc. Memo to EPA RE: Vulnerability of Biota of Freshwater (Rivers, Lakes, Reservoirs) versus Marine (Tidal River, Estuary, Ocean) Habitats to Entrainment and Impingement Impacts. April 2, 2001.

2–013B Winemiller, K.O., and K.A. Rose. Patterns of life-history. Diversification in North American Fishes: Implications for Population Regulation. Canadian Journal of Fisheries and Aquatic Sciences 49: 2196–2218. 1992.

EPA is considering whether these data would support a modification to its proposed regulatory requirements for

freshwater streams and rivers. Such a modification would: (1) Eliminate the proposed requirement for facilities to reduce intake capacity to a level commensurate with use of a closed-cycle cooling system for intakes located inside or within 50 meters of the littoral zone; and (2) require implementation of additional design and construction technologies that minimize impingement and entrainment of fish, eggs, and larvae and maximize survival of impinged adult and juvenile fish (such as extremely fine-mesh screens, or fish return systems that significantly increase the survival of impinged organisms) in all parts of freshwater rivers and streams rather than only within the littoral zone. The approach would retain the proposed requirements for a design intake flow of ≤5% of the source water mean annual flow and ≤25% of the source water 7Q10 low flow, and a design intake velocity of ≤0.5 ft/s in all parts of freshwater rivers and streams. This approach would potentially have lower costs than the proposed requirements. EPA invites comment on this potential modification.

6. Exception for Areas Not Designated To Support an Aquatic Life Use

Several commenters asserted that the proposed regulations would require use of protective and costly technologies in areas that are not particularly susceptible to impact from cooling water intake structures because they do not support aquatic life. EPA is evaluating these comments and, in response, may identify other less costly technologies as best technology available for minimizing adverse environmental impact in waterbodies a State or Tribe designates as having no use supporting the propagation or maintenance of aquatic life in accordance with 40 CFR part 131 (e.g., the State or Tribe has conducted a Use Attainability Analysis and EPA has approved the revised use). EPA recognizes that this would be a very small set of water bodies and that including such a provision would have little practical effect on the regulatory requirements for most new facilities. EPA requests comment on other ways of identifying or defining waters with low susceptibility to impact from cooling water intake structures because of limited potential for aquatic life support even in the absence of the facility.

E. Additional Data and Information Concerning the Impingement and Entrainment Approach and the Population Approach and Biological Assessment Approach to Defining Adverse Environmental Impact

1. Additional Impingement, Entrainment, and Mortality Data

Although EPA's proposed regulatory text did not include a definition of the term ''adverse environmental impact'' in the preamble to these regulations, the Agency invited comment on a number of alternatives for either defining adverse environmental impact or determining a threshold for the level of environmental impact deemed to be adverse. 65 FR 49074–49075.

EPA received numerous comments on its proposed rule asserting that the proper endpoint for defining adverse environmental impact (AEI) is at the population level, that some of EPA's proposed alternative definitions of adverse environmental impact would essentially protect ''one fish,'' and that EPA's alternative for defining adverse environmental impact as recurring and nontrivial impingement and entrainment was vague or would lead to excessive and costly efforts to protect a very few fish that would not result in ecologically relevant benefits. While EPA's record at proposal demonstrates that cooling water intake structures do not kill, impinge, or entrain just ''one fish,'' or even a few aquatic organisms, today's Notice invites comment on additional information that provides further examples of cooling water intake structures that kill or injure large numbers of aquatic organisms. For example, in #2–013 in the Docket, EPA provides information on aquatic organism conditional mortality rates for the Hudson and Delaware rivers which demonstrate the degree of mortality due to cooling water intake structures. EPA is considering this information, as well as information (at Section E.2 below) on impingement and entrainment survival and impact, as it deliberates on options for the final rule and how it should define adverse environmental impact. If EPA decides to include a definition of AEI in the final rule, it is considering whether to define adverse environmental impact using a population endpoint or an alternative that relies upon counts of impinged and entrained organisms.

Further, EPA is considering documents that discuss potential consequences associated with the loss of large numbers of aquatic organisms. These include impacts on the stocks of various species, including any loss of compensatory reserve due to the deaths of these organisms, and the overall health of ecosystems. EPA invites comments on the following documents:

2–018A Boreman, J. Surplus Production, Compensation, and Impact Assessments of Power Plants. Environmental Science & Policy. (31) 445–449. 2000.

2–018B Richkus, W., Versar Inc. Memo to EPA RE: Primer on Entrainment and Impingement Conditional Mortality Rate. March 30, 2001.

2–018C EPA. Memo to File RE: Impingement Values for Plants with Flows Less Than 100 MGD. August 2000.

2–018D Loveridge, T., Chief Industrial Permits Section, NYDEC. Transmittal of Impingement and Entrainment Study for Charles Point Resource Recovery Facility to A. Bromberg, Chief Water Quality Evaluation Section, NYDEC. January 14, 1987.

2–018E Richkus, W.A. and Richard McLean. Historical Overview of Two Decades of Power Plant Fisheries Impact Assessment Activities in Chesapeake Bay. Environmental Science and Policy. (31) 283–293. 2000.

EPA also invites commenters to submit for consideration additional studies that document either significant impacts or lack of significant impacts from cooling water intake structures. In addition, EPA invites comment on the following documents:

2–013C PSE&G. Renewal Application for Salem Generating Station Permit No. NJ00005622. Appendix F, Attachments 1 & 2. Baywide and In Plant Sampling Programs and Sampling Methods; and Model Methodologies and Common Input Parameters. March 1999.

2–013E New York Department of Environmental Conservation. Draft Environmental Impact Statement for State Pollutant Discharge Elimination System for Bowline Point, Indian Point 2 & 3, and Roseton Steam Electric Generating Stations. December 1999.

2. Assessment of Population Modeling Approach

Some commenters assert that impact on individual organisms, large numbers of individual organisms, or subpopulations are not ecologically relevant and recommend that EPA define adverse environmental impact as follows: ''Adverse environment impact is a reduction in one or more representative indicator species that (1) creates an unacceptable risk to the populations's ability to sustain itself, to support reasonably anticipated commercial or recreational harvests, or to perform its normal ecological function, and (2) is attributable to the operation of the cooling water intake structure.'' Under this approach, EPA would define unacceptable risk using a variety of methods that fisheries scientists have developed for estimating

(1) the level of mortality that can be imposed on a fish population without threatening its capacity to provide ''maximum sustainable yield,'' as developed under the Magnuson-Stevens Fishery Conservation and Management Act, on a long-term basis, and (2) the optimum population size for maintaining maximum sustainable yield. (See W–00–03, 316(b), Comments 1.68).

In response to comments, EPA has included in the record for comment a memorandum providing a list of references that EPA intends to review to assess the merits of using a population modeling approach to define adverse environmental impact. EPA also intends to evaluate and seeks comment on how and whether it is possible to use such models, which have historically been used to perform single species assessments, to assess impacts on multiple species as is often necessary in evaluating impingement and entrainment by cooling water intake structures. EPA invites comment on the following documents found in #2–019A–B in the Docket.

2–019A Strange, Liz, Stratus Consulting, Inc. Memo to File RE: Scientific Literature on Population Modeling. April 2001.

2–019B ESSA. Review of Portions of Salem Permit—Final Report for New Jersey Department of Environmental Protection. June 2000.

Further, EPA has included information addressing the issue of compensation and its application relative to the section 316(b) rulemaking. In particular, EPA is seeking comment on a memorandum titled, ''Compensation'' in #2–020C in the Docket. This document states that the use of compensation factors is typically limited to those cases where fishery managers have extensive data on a fish population and that specific, numerical compensation values generally are not used in the absence of a robust data sets with a minimum of 15–20 years of data suggested. Moreover, fish stocks for which these robust data sets exist are generally the highly exploited commercial and recreational stocks and it is unlikely the data exists for the non-harvested species. This memorandum also notes that in the absence of sufficient data, various proxies are typically used in order to side-step the need for quantitatively determining compensation. EPA invites comment on each of the following documents in #2–020A–D in the Docket:

2–020A National Marine Fisheries Service. Our Living Oceans. Report on the Status of U.S. Living Marine Resources. NOAA Technical Memo #NMFS–F/SPO–41. 1999. (Available at: http://spo.nwr.noaa.gov/unit17.pdf)

2–020B Christensen, S.W., W.V. Winkle, L. W. Barnthouse, and D.S. Vaughan. Science and Law: Confluence and Conflict on the Hudson River. Environmental Impact Assessment Review, V.2, N.1. 1981.

2–020C Vaughan, Doug, NMFS. Memo to JT Morgan, EPA RE: Compensation and follow-up memo. April 19, 2001.

2–020D EPA. Guidelines for Ecological Risk Assessment. Risk Assessment Forum, U.S. Environmental Protection Agency, Washington, DC. EPA/630/R–95/002F. 1998.

EPA is also evaluating information submitted by the Utility Water Act Group (UWAG) and the Electric Power Research Institute (EPRI), both in their comments and in studies provided to the Agency after the comment period. (See UWAG original comments at W–00–03, 316(b), Comments 1.68; EPRI original comments at W–00–03, 316(b), Comments 1.58, EPRI documents submitted after November 9, 2000 at W–00–03, 316(b), Comments 2.11; EPRI meeting material, January 24, 2001(see #2–021A in the Docket); and UWAG meeting material, January 25, 2001(see #2–021B in the Docket)). In summary, these comments and documents assert or are intended to support the assertion that entrainment of very large numbers of eggs, larvae, and early juvenile-stage fish does not necessarily meaningfully affect populations of the entrained species and that substantial percentages of the organisms of many species may survive entrainment. Further, these comments and documents assert or are intended to support the assertion that impingement survival is high for many species and that impingement often impacts low-value, forage species when they are naturally prone to seasonal die-off regardless of cooling water intake structures. One of these comments asserts that EPRI and some of the best fishery scientists in the world have never identified a site where definitive or conclusive aquatic population or community level impacts have occurred from operation of cooling water intake structures. EPA invites comment on each of these documents.

3. Biological Assessment Approach

Biological assessments and criteria are recognized as important methods for gathering relevant ecological data for addressing attainment of biological integrity and designated aquatic life uses (see #1–5038–PR, #2–022A, #2–022C, and #2–022F in the Docket). EPA invites comment on the following discussion and documents that identify potential constraints on using these methods to determine adverse environmental impact from the operation of cooling water intake structures.

First, biological assessment and criteria methods are still being developed for large rivers and the Great Lakes, two large water body types where many cooling water intake structure are located. Secondly, although biological assessment and criteria methods have been published by EPA for small streams and wadeable rivers (see #2–022A and #2–022D in the Docket), lakes and reservoirs (see #2–022C in the Docket), and estuaries and coastal marine waters (see #1–5044–PR in the Docket), many States have yet to implement these methods in the largest of these water bodies (reservoirs, lakes, estuaries and coastal water (see #2–022B and #2–022E in the Docket).) where cooling water intake structure would be located. Most work to date by the States (see #2–022B, #2–022D and #2–022E in the Docket) to use these methods has been applied to small streams and wadeable rivers where few cooling water intake structures are located.

In addition, although bioassessments and criteria are a valuable tool for determining the biological condition of a water body, in complex situations where multiple stressors are present (point source discharges, non-point source discharges, harvesting, runoff, hydromodifications, habitat loss, cooling water intake structures, etc.), it is not well understood at this time how to identify all the different stressors impacting the biology in a water body and how best to apportion the relative contribution to the biological impairment of the stressors from each source within a watershed (see #2–022E in the Docket). Although ecological risk assessment methods have been successfully used to identify and attribute causation of biological impairment in some water bodies (see #2–022F in the Docket), the application of these approaches to cooling water intake structures has not been tested.

EPRI has also developed a document that examines the suitability of multimetric bioassessment for regulating cooling water intake structures under Section 316(b) of the CWA (see #2–022E in the Docket). In its conclusion, EPRI states that biocriteria are well suited for assessing community-level effects but are not designed as indices to measure population-level effects without additional analyses; that assumptions about the structure and function of ecosystems embedded in the biocriteria approach appear to conflict with current understanding of ecosystems as dynamic, nonequilibrium systems

structured on multiple time and space scales; and that issues such as significant uncertainty in reference conditions due to unaddressed sources of natural variability among reference sites may be of particular importance for large, open systems such as estuaries sand coastal marine wasters. EPA invites comment on this document and on the documents listed below, which may be found in #2–022A–F in the Docket:

2–022A EPA. Biological Criteria: Technical Guidance for Streams and Small Rivers. USEPA, Office of Science and Technology, Washington, DC. EPA 822–B–96–001. 1996.

2–022B EPA. Summary of State Biological Assessment Programs for Rivers and Streams. USEPA, Office of Policy Planning and Evaluation, Washington, DC. EPA 230–R–96–007. 1996.

2–022C EPA. Lake and Reservoir Bioassessment and Biocriteria. Technical guidance document. Office of Water, USEPA, Washington, DC. EPA 841–B–98–007. 1998.

2–022D EPA. Rapid Bioassessment Protocols for Use in Wadeable Streams and Rivers. Second Edition. Office of Water, USEPA, Washington, DC. EPA 841–B–99–002. 1999.

2–022E Jacobson, P. Evaluation of Biocriteria as a Concept, Approach, and Tool for Assessing Impacts of Impingement and Entrainment Under § 316(b) of the Clean Water Act, EPRI, Palo Alto, CA. TR–114007. 2000.

2–022F EPA. Stressor Identification Guidance Document. Office of Water, USEPA, Washington, DC. EPA–822–B–00–025. 2000.

EPA also invites comment on the following documents made available at proposal on August 10, 2000:

1–5038–PR EPA. Estuarine and Coastal Marine Waters : Bioassessment and Biocriteria Technical Guidance. USEPA, Office of Water Regulations and Standards, Washington, DC. EPA 822–B–00–024. 2000.

1–5044–PR EPA. Biological Criteria: National Program Guidance for Surface Waters. USEPA, Office of Water Regulations and Standards, Washington, DC. EPA 440–5–90–004. 1990.

4. Additional Information Supporting That Impingement and Entrainment May Be a Non-Trivial Stress on a Waterbody

In addition to reviewing the merits of a population approach to assessing adverse environmental impact, EPA is also considering additional information suggesting that impingement and entrainment, in combination with other factors, may be a non-trivial stress on a waterbody. EPA recognizes that cooling water intake structures are not the only source of human-induced stress on aquatic communities. These stresses include, but are not limited to, nutrient loadings, toxics loadings, low dissolved oxygen content of waters, sediment loadings, stormwater runoff, and habitat loss. While recognizing that a nexus between a particular stressor and adverse environmental impact may be difficult to establish with certainty, the Agency has identified methods for evaluating more generally the stresses on aquatic communities from human-induced perturbations other than fishing. Of particular importance is the recognition that stressors that cause or contribute to the loss of aquatic organisms and habitat may incrementally impact the viability of aquatic resources. EPA is examining whether waters meet their designated uses, whether fisheries are in stress, and whether waters would have higher water quality or better support their designated uses if EPA established additional requirements for new cooling water intake structures. EPA is considering use of this type of information as one approach for evaluating adverse environmental impact and requests comment on this approach.

EPA has prepared a brief memorandum (Dabolt, Thomas, EPA. Memo to File RE: 316(b) Analysis—Relationship of Location to Cooling Water Intake Structures to Impaired Waters. April 18, 2001.) documenting that about 35% of existing cooling water intake structures at facilities that completed EPA's detailed section 316(b) questionnaire are located within two miles of locations within waterbodies identified as impaired and listed by a State as needing development of a Total Maximum Daily Load to restore the waterbody to its designated use. EPA recognizes, however, that these data do not establish that cooling water intake structures are the cause of adverse environmental impact in any particular case and that there may be other reasons for the presence of impaired waters near cooling water intake structures, such as the frequent location of facilities with cooling water intake structures near other potential sources of impairment (e.g., industrial point sources, urban stormwater). EPA requests comment on the relevance of these data to adverse environmental impact determinations for cooling water intake structures (see #2–023 in the Docket).

EPA has also summarized information from a number of sources indicating overutilization of about 46% of the fishery stocks of known status tracked by and under NOAA purview (73 out of 158 stock groups), and which rely on tidal rivers, estuaries, and oceans for spawning, nursery, or adult habitat. An additional 45 stocks under NOAA purview are of unknown status (about 22% of the fishery). In addition, NOAA documents in a number of their Fishery Management Plans that cooling water intake structures, and in particular once-through cooling water systems that withdraw large volumes of water, cause adverse environmental impacts due to significant impingement of juveniles and entrainment of eggs and larvae. EPA recognizes that stress due to overutilization may not be directly relevant to adverse environmental impact, but believes that it may be relevant to assessing cumulative impacts of multiple stressors, including cooling water intake structures. EPA requests comment on the potential use of these data for this purpose.

EPA invites comment on the following documents and information the Agency is considering as it evaluates possible definitions of adverse environmental impact and concerns associated with assessing multiple stressors and their impacts on aquatic communities (see #2–024A–O in Docket).

2–024A Angermeier, P.L. and J.E. Williams. Conservation of Imperiled Species and Reauthorization of the Endangered Species Act of 1973. Fisheries. 19(1): 26–29. 1994.

2–024B Gulf of Mexico SPR Management Strategy Committee. An Evaluation of the Use of SPR Levels as the Basis for Overfishing Definitions in Gulf of Mexico Finfish Fishery Management Plans: Final Report, Gulf of Mexico Fishery Management Council, Tampa, FL. 1996.

2–024C Branstetter, S. Bycatch and its Reduction in the Gulf of Mexico and South Atlantic Shrimp Fisheries. Gulf & South Atlantic Fisheries Development Foundation, Inc., Tampa, FL. 1997.

2–024D Crowder, L.B., and S.A. Murawski. Fisheries Bycatch: Implications for Management. Fisheries. 23(6): 8–17. 1998.

2–024E Weeks, H. and S. Berkeley. Uncertainty and Precautionary Management of Marine Fisheries: Can the Old Methods Fit the New Mandates? Fisheries Management, Vol 25, No.12. 2000.

2–024F Boreman, J. Methods for Comparing the Impacts of Pollution and Fishing on Fish Populations. Transactions of the American Fisheries Society. 126: 506–513. 1997.

2–024G Schaaf, W.E. et al. Fish Population Responses to Chronic and Acute Pollution: The Influence of Life History Strategies. Estuaries. Vol. 10, No.3, page 267–275. September 1987.

2–024H Schaaf, W.E. et al. A Simulation Model of How Life History Strategies Mediate Pollution Effects on Fish Populations. Estuaries. Vol. 16, No.4, page 697–702. December 1993.

2–024I Vaughan, D. S., R. M. Yoshiyama, J. E. Breck, and D. L. DeAngelis. Modeling Approaches for Assessing the Effects of Stress on Fish Populations in Contaminant

Effects on Fisheries. John Wiley & Sons, New York. p. 259–278. 1984.

2–024J National Marine Fisheries Service. Scientific Review of Definitions of Overfishing in US Fishery Management Plans. August 1994.

2–024K National Marine Fisheries Service. Scientific Review of Definitions of Overfishing in US Fishery Management Plans—Supplemental Report. March 1996.

2–024L Restrepo, Victor R., Pamela M. Mace and Fredric M. Serchuk. The Precautionary Approach: A New Paradigm or Business as Usual? Our Living Oceans. 1998.

2–024M National Marine Fisheries Service. Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan—Amendment 8. August 1998.

2–024N National Marine Fisheries Service. The Coastal Pelagic Species Fishery Management Plan—Amendment 8. December 1998.

2–024O National Marine Fisheries Service. New England Fishery Management Council. Essential Fish Habitat Amendment. October 1998.

In addition, EPA invites comment on the following documents:

2–020A National Marine Fisheries Service. Our Living Oceans. Report on the Status of U.S. Living Marine Resources. NOAA Technical Memo #NMFS–F/SPO–41. 1999. (Available at: http://spo.nwr.noaa.gov/unit17.pdf)

2–018A Boreman, J. Surplus Production, Compensation, and Impact Assessments of Power Plants. Environmental Science & Policy. (31) 445–449. 2000.

EPA has gathered new data on adverse environmental impact determinations made in connection with State and Federal NPDES Permit decisions. EPA invites comment on the following documents compiled in #2–025A–W in the Docket.

2–025A State of California, California Regional Water Quality Control Board, Central Coast Region. Staff Report for Regular Meeting of October 27, 2000. Supplemental Sheet, Item Number 23, Subject: Diablo Canyon Nuclear Power Plant, Resolution of Thermal Discharge and Entrainment/Impingement Impacts. October 2000.

2–025B California Regional Water Quality Control Board, Central Coast Region. Waste Discharge Requirements Order No. 00–041, NPDES No. CA00062554 for Duke Energy North America, Moss Landing Power Plant, Units 1, 2, 6, and 7 Monterey County. October 27, 2000.

2–025C New Jersey Department of Environmental Protection and Energy Wastewater Facilities Regulation Program. In the Matter of NJDEP Public Hearing on Draft Permit No. NJ 0005652 for the Salem Nuclear Generating Station, Transcript Proceedings. Thursday, September 9, 1993.

2–025D New Jersey Department of Environmental Protection and Energy Wastewater Facilities Regulation Program, Bureau of Standard Permitting. Public Notice, Consideration of Section 316 Variance Request, Intent to Renew Existing New Jersey Pollutant Discharge Elimination System/Discharge to Surface Water (NJPDES/DSW) Permit NJ0005622, and Notice of Public Hearing. June 24, 1993.

2–025E State of New Jersey Department of Environmental Protection, Division of Environmental Protection, Division of Water Quality. Fact Sheet for NPDES Permit Including Section 316(a) Determination and Section 316(b) Decision, Permit No. NJ0005622. July 1994.

2–025F State of New Jersey Department of Environmental Protection, Division of Environmental Protection, Division of Water Quality. Response to Comments Document PSE&G Salem Generating Station, NJPDES/DSW Draft Permit NJ0005622. July 1994.

2–025G State of New Jersey Department of Environmental Protection, Division of Environmental Protection, Division of Water Quality. PSE&G Salem Nuclear Generating Station NJPDES Permit #NJ0005622. 1994.

2–025H EPA Region IV. Record of Decision on Tampa Electric Company Big Bend Unit 4, NPDES Permit No. FL0037044. April 7, 1982.

2–025I EPA Region IV. Finding of Fact for TVA John Sevier Station. October 23, 1978.

2–025J EPA Region IV. 316 Determinations, John Sevier Steam Plant, NPDES No. TN0005436. April 15, 1986.

2–025K EPA Region IV and Florida Department of Environmental Regulation. Joint Public Notice, No. 78FL0080. Notice of Proposed Modification of National Pollutant Discharge Elimination System Permit and Notice of Consideration for State Certification, Crystal River Power Plant Units 1, 2, and 3, NPDES No. FL0000159. January 8, 1978.

2–025L EPA Region IV. Public Hearing Statement, Florida Power Corporation Crystal River Units 1, 2, and 3. February 3, 1987.

2–025M EPA Region IV. Biological Assessment, Florida Power Corporation Crystal River Power Plant, 316A & B Demonstration. Date Unknown.

2–025N EPA Region IV. In the Matter of Florida Power Corporation Crystal River Power Plant Units 1, 2, and 3, Citrus County Florida, NPDES Permit No. FL0000159, Findings and Determinations Pursuant to 33 U.S.C. Section 1326. September 1988.

2–025O EPA Region IV and Florida Department of Environmental Regulation. Joint Public Notice, No. 88FL036, Notice of Proposed Reissuance of National Pollutant Discharge Elimination System Permit, Tentative Determination of Substantial Damage, Tentative Section 316 Findings and Determinations, Notice of Consideration for State Certification, and Notice of Public Hearing, Crystal River Power Plant Units 1, 2, and 3, NPDES No. FL0000159. May 19, 1988.

2–025P EPA Region IV. Florida Power Corporation, Crystal River Power Plant Units 1, 2, and 3, NPDES No. FL0000159, Public Hearing. February 4, 1987.

2–025Q EPA Region IV. Fact Sheet, Application for National Pollutant Discharge Eliminations System Permit to Discharge Treated Wastewater to U.S. Waters, Application No. FL0000159, Florida Power Corporation, Crystal River Power Plant Units 1, 2, and 3. September 1, 1988.

2–025R EPA Region IV and Florida Department of Environmental Regulation. Joint Public Notice, No. 86FL100, Notice of Proposed Reissuance of National Pollutant Discharge Elimination System Permit, Tentative Determination of Substantial Damage, Tentative Section 316 Findings and Determinations, Notice of Consideration for State Certification, Crystal River Power Plant Units 1, 2, and 3, NPDES No. FL0000159. December 18, 1986.

2–025S Kaplan, Charles, EPA Region IV. Letter to Dr. Patsy Y. Baynard, Director Environmental and Licensing Affairs, Florida Power Corporation, RE: Crystal River Power Plant Units 1–3, NPDES No. FL0000159, 316(a &b) Demonstration Meeting—September 18, 1985 and Attachments. August 23, 1985

2–025T White, John C., EPA Region IV. Letter to Honorable Lawton Chiles, June 8, 1978.

2–025U Hart, Dennis. State of New Jersey Department of Environmental Protection, Division of Environmental Protection, Division of Water Quality. Letter to Richard L. Caspe, EPA Region II RE: PSE&G Salem Nuclear Generating Station, NJPDES #NJ0005622. January 31, 1994.

2–025V Caspe, Richard L, EPA Region II. Letter to John Weigart, State of New Jersey Department of Environmental Protection, Division of Water Quality RE: Response to Dennis Hart Letter of January 31, 1994. 1994

2–025W Hicks, Delbert B., EPA Region IV. Letter to Charles Kaplan, EPA RE: Crystal River 316(b) Findings. Date Unknown.

In addition, EPA invites comment on the following documents:

2–013F Kurkel Patricia, NOAA. Letter to Deborah Hammond, EPA Region RE: Review of Draft Permit (Salem Nuclear Generating Station) II. February 28, 2001

5. Other Options for Interpreting Adverse Environmental Impact

In the proposed rule preamble, EPA discussed several other option for interpreting adverse environmental impact. One option would be to look to section 316(a) of the Clean Water Act for guidance in assessing adverse environmental impact from cooling water intake structures. Section 316(a) addresses requirements for thermal discharge and provides that effluent limitations associated with such discharge should generally not be more stringent than necessary to ''assure the protection and propagation of a balanced indigenous population of shellfish, fish, and wildlife in and on that body of water.'' The same language

is repeated in section 303(d) with reference to Total Maximum Daily Load listing requirements for waters impaired by thermal discharge. These statutory provisions show that Congress intended this standard to be used in evaluating the environmental impacts of thermal discharges. Some have suggested that since thermal discharges are usually paired with cooling water intake, it may be reasonable to interpret the Clean Water Act to apply this standard in evaluating adverse environmental impact from cooling water intake structures as well.

Another option would be to define adverse environmental impact as a level of impingement and entrainment that is ''recurring and non trivial.'' 65 FR 49074. EPA is considering refining that idea by interpreting ''recurring and non trivial'' impacts as the degree of impingement and entrainment that would have resulted from the use of the traditional technologies in use at the time the Clean Water Act (including section 316(b)) was enacted in 1972. EPA believes that the traditional technology in use at that time would have been a once-through cooling system with a simple bar rack screen to minimize entrainment of large debris items and a simple mesh screen to minimize entrainment of small debris items into the condenser. Under this approach, EPA would define the common performance of the traditional technologies as having an adverse environmental impact and then consider reasonable requirements to improve over that performance. EPA recognizes that the statutory phrase ''minimize adverse environmental impact'' could be interpreted in a way that focuses on the environmental impacts of cooling water intake structures to determine whether and to what extent these impacts are ''adverse,'' perhaps using a population approach, as suggested by some. However, EPA believes that the phrase ''best technology available to minimize adverse environmental impact'' could also reasonably be interpreted in a way that focuses on the technology, rather than the impact, in a manner analogous to the technology-based standards applicable to point source dischargers under Clean Water Act sections 301, 304, and 306. EPA requests comment on these alternative approaches for interpreting adverse environmental impact.

EPA also notes that a number of other options for interpreting or defining adverse environmental impact were discussed in the proposal (65 FR 49074), and does not intend in this notice to suggest that they are not still under active consideration. EPA is still considering all of the options for interpreting and defining adverse environmental impact that were discussed in the proposal as options for the final rule and invites further comment on any of them.

F. Additional Data Related to the Specific Technology Limits in the Proposed Regulations

1. Proportional Flow Limits for Freshwater Streams and Rivers and Tidal Rivers, Estuaries

EPA proposed specific flow limits of 5% of mean annual flow of freshwater streams and rivers because the Agency determined this would be the best way to protect 95% of the aquatic life in these water bodies from entrainment. EPA also proposed to limit withdrawals from estuaries and tidal rivers to 1% of the tidal excursion. The proposed limit is based on the concept that withdrawal of a unit volume of water from a water body will result in the impingement and/or entrainment of an equivalent unit of aquatic life (particularly eggs and larval organisms) suspended in that volume of the water column. This, in turn, is related to the idea that the density of aquatic organisms withdrawn by a cooling water intake structure is equivalent to the density of the organisms in the water column. Thus, if 5% of the mean annual flow (or alternative proposed levels of 10% and 15% for freshwater bodies) is withdrawn, it will result in the impingement and/or entrainment of 5% (or alternative) of the aquatic life in that water body.

Some commenters asserted that this assumption is not valid. They argued that aquatic organisms are not uniformly distributed within the water column and that patchy distribution of aquatic organisms invalidates the assumption that withdrawal of a certain percentage of a water body would correlate to an equivalent withdrawal of aquatic life. Since proposal, EPA received new information concerning the distribution and density of organisms in natural waters. In #2–013 D and E in the Docket, EPA is providing for comment information on the density of organisms in the Hudson and Delaware rivers as well as in Mt. Hope Bay. In #2–013J in the Docket, the Agency is also providing for comment information on models identified by EPRI that may be used to estimate and/or evaluate aquatic organism densities in order to estimate entrainment rates. EPA believes the use of these data and modeling approaches is supportable because assessments of aquatic organism densities are the basis for calculations for the empirical transport model which is, in turn, the basis for calculating conditional mortality rates. Both of these methods are widely used by industry and regulatory agencies to estimate losses related to cooling water intake structures.

The Agency has identified information from other State and Federal agencies that supports the need for flow-based standards to protect aquatic organisms. This information includes methodologies for determining the limiting flow conditions for a waterbody for the protection and propagation of aquatic life and wildlife in stream environments (see #2–026B, #2–026C, and #2–026D in the Docket). EPA invites comment on the following documents:

2–026A Goodyear, C.P. Mathematical Methods to Evaluate Entrainment of Aquatic Organisms by Power Plants. U.S. Fish and Wildlife Service National Power Plant Team. FWS/OBS–76/20.3. 1977.

2–026B Lang, Vernon. Questions and Answers on the New England Flow Policy. U.S. Fish and Wildlife Service. Concord, New Hampshire. May 11, 1999.

2–026C Kulik, Brandon. A Method to Refine the New England Aquatic Base Flow Policy. Rivers. Volume 1, Number 1. Pages 8–22.

2–026D Washington State, Department of Ecology. Questions and Answers—An Overview of the Instream Flow Incremental Methodology. QWR–95–1–4. August 1995.

2–013J Dixon, D.A., EPRI. Catalog of Assessment Methods for Evaluating the Effect of Power Plant Operations on Aquatic Communities. 1999.

2–013L Cacela, Dave, Stratus Consulting Inc. Memo to JT Morgan, EPA RE: Planned Analysis of Ambient Larval Densities and I&E. April 20, 2001.

EPA also invites comment on the following supplement to the discussion at proposal of the proposed limitations on intake flow as a proportion of waterbody flow (see 65 FR 49085–49087). EPA is considering whether a proportional flow limitation would have the effect of reducing or minimizing adverse environmental impact that may be associated with withdrawal of large volumes of cooling water from relatively small water bodies. EPA is considering and seeks comment, in particular, about the efficacy of the proposed limitation associated with the mean annual flow of freshwater streams and rivers. These limitations could be effective because large-volume withdrawals occurring on a year-round basis may affect all aspects of the life cycles of the organisms susceptible to entrainment. Inasmuch as some commenters have asserted that aquatic organisms are not uniformly distributed within the water column

(i.e., exhibit ''patchy'' distribution), the withdrawal of large volumes of water may, over the course of the year, smooth out the ''patchiness'' and subject a portion of the biota commensurate with intake flow to entrainment. The Agency is considering and seeks comment on whether a proportional flow standard based on mean annual flow proposed at 40 CFR 125.84(b) will effectively protect smaller freshwater rivers and streams from levels of impingement and entrainment proportional to the volume of water withdrawn from these waterbodies.

2. Limitation on Altering Stratification in Lakes and Reservoirs

At least one commenter asserted that the regulation as proposed can be interpreted to require that no alteration of the natural thermal stratification is allowed, regardless of the size, limit, or location relative to the intake structure. They further asserted that this standard is unachievable and should not be included in the final rule.

The Agency continues to consider whether these regulations should limit withdrawals of large quantities of cooling water from lakes which are naturally stratified. In particular, EPA is considering whether the withdrawal of large quantities of subsurface water may negatively affect a lake's thermal stratification and seasonal turnover dynamics. EPA is also considering whether cooling water withdrawals from deeper, colder areas within lakes, followed by discharge of used cooling water either at, or where it may rise to, the lake's surface, may bring nutrient-rich, hypolimnion [1] water to the surface where it may stimulate the growth and respiration of harmful levels of algae and other biological assemblages within a lake. EPA is considering and invites comment on whether such concerns are appropriately addressed in regulation for cooling water intake structures or should be addressed by a permitting agency when it establishes any limitations on the discharge of the cooling water.

EPA is also considering whether the proposed limitation to ''not alter'' and ''not upset'' natural stratification may be subject to considerable interpretation such that the intent of that portion of the proposed regulation is not sufficiently clear. Thus, the Agency solicits public comments on the information contained in ''Cumulative Impacts of Power Plant Cooling Systems on Lake TMDLs'' (see #2–027A in the Docket) which supports the idea of maintaining natural stratification. EPA also requests comment on the use of the phrase ''not disrupt the natural stratification and turnover pattern of the source water body'' and invites commenters to suggest other alternatives to the terms ''not alter the natural stratification of the source water body'' or ''not upset the natural stratification of the source water body'' as used at 65 FR 49077 and 49118.

2–027A Chen, C.W., L.H. Ziemelis, J. Herr and R.A. Goldstein. Cumulative Impacts of Power Plant Cooling Systems on Lake TMDLs. Proceedings of an EPRI Conference : Power generation Impacts on Aquatic Resources. Atlanta, Georgia. April 12–15, 1999.

3. Velocity

EPA proposed 0.5 ft/sec as a velocity limit in all waters except those 50 meters beyond the littoral zone in lakes and reservoirs. Since proposal, EPA has gathered or received data on the swimming speed of fish of various species from EPRI (see W–00–03, 316(b) Comments 2.11), from the University of Washington studies that support the current National Marine Fisheries Service velocity standard for intake structures and from references included in comments from the Riverkeeper (see Turnpenny, 1988, referenced in W–00–03, 316(b) Comments 2.06. Document found in #2–028B in the Docket). All of the swim speed data used is contained in #2–028 in the Docket. Also located in #2–028 in the Docket, is new data EPA received from the National Marine Fisheries Service on screen design consideration for approach velocities to protect juvenile salmonids.

2–028A EPRI. Technical Evaluation of the Utility of Intake Approach Velocity as an Indicator of Potential Adverse Environmental Impact Under Clean Water Act Section 316(b). Technical Report. 1000731. 2001.

2–028B Turnpenny, A.W. H. The Behavioral Basis of Fish Exclusion from Coastal Power Station Cooling Water Intakes. Central Electricity Generating Board Research Report, RD/L/3301/R88. 1988.

2–028C Smith, L.S., L.T. Carpenter. Salmonid Fry Swimming Stamina Data for Diversion Screen Criteria. Prepared by Fisheries Research Institute, University of Washington, Seattle, WA for Washington State Department of Fisheries and Washington State Department of Wildlife. 1987.

2–028D Pearce, Robert O. and Randall T. Lee. Some Design Considerations for Approach Velocities at Juvenile Salmonid Screening Facilities. American Fisheries Symposium. 1991.

The Graph (Swim Speed Data, #2–029 in the Docket), is a compilation of the data EPA received on fish swimming speeds as it varies with the length of the tested fish and with water temperature. These data show that, not accounting for any safety margin to address screen fouling (which increases velocity in screen areas that remain open), a 1.0 ft/s velocity standard would protect 78% of the tested fish, and a 0.5 ft/s velocity would protect 96% of these fish. EPA is evaluating these data and considering whether to maintain or modify the proposed velocity limitation. To estimate the extent to which a low-velocity performance standard might affect new facilities, EPA also is evaluating preliminary data on the design intake velocity of existing facilities from the Agency's section 316(b) survey questionnaire (see Percentage Distribution of Intake Velocities for Recently Constructed In-Scope Cooling Water Structures, #2–030 in the Docket). These preliminary data indicate that 73% of the manufacturing facilities and 62% of the electricity generating facilities built in the last 15 years meet the proposed velocity limitation of no more than 0.5 feet/second.

EPA is evaluating a number of other issues that could cause it to modify the proposed velocity limitation. As discussed at Section A.3 above, EPA received comments asserting that offshore and coastal oil and gas platforms might be subject to the rule and face difficulties meeting the proposed velocity limitation due to biofouling concerns in marine waters and engineering/technical issues associated with drilling platforms. EPA is evaluating these assertions and seeking additional information on this topic. Should EPA include new offshore and coastal oil and gas platforms within the scope of the final regulations, the Agency will decide whether subcategorization and a different velocity limitation may be appropriate for these facilities. EPA is also investigating whether biofouling is an issue for cooling water intake structures at land-based facilities.

In response to comments, EPA is evaluating whether the 0.5 ft/s velocity limitation is appropriate or necessary for offshore intakes equipped with velocity caps. Velocity caps work by changing vertical flows, which fish do not avoid because they can not detect, to horizontal flows, which fish detect and avoid. Commenters suggested that offshore intakes with velocity caps designed with velocities greater than 0.5 ft./s would be more effective in reducing biofouling than those with lower

[1] Hypolimnion: The deep, cold, and relatively undisturbed region below the thermocline. From: Hutchinson, G.E. 1975. A Treatise on Limnology, Volume 1, Part 1—Geography and Physics of Lakes. John Wiley & Sons, New York. (See #2–027B in the Docket).

velocities and would be more effective in protecting fish located in waterbodies with higher flow velocities. Commenters also raised issues associated with the effects of tidal and long-shore currents on velocities in the vicinity of velocity caps. EPA identified documentation (see Turnpenny, 1988, W–00–03, 316(b) Comments 2.06 in #2–028B in the Docket; Mussalli, Taft, Larson, 1980; and Schlenker 2001 in #2–031B in the Docket) that may substantiate commenters' concerns with the influence of tidal and current velocities on velocities at a velocity cap. However, the documentation also provides design solutions to minimize the influence of water body currents on velocity caps. EPA identified documents indicating that, in these circumstances, limiting velocities at intakes with velocity caps may afford some additional protection, but that the entrainment reduction may be small. One of the documents states that the location of the submerged intake structure may be the most important factor in limiting the impact from the intake structure. EPA requests comment on the following documents.

2–031A Mussalli, Yusuf, et al. Offshore Water Intakes Designed to Protect Fish. In: Journal of the Hydraulics Division, Proceedings of the American Society of Civil Engineers, Vol. 106, No. HY11. 1980.

2–031B Schlenker, Stephen J, Army Corps of Engineers. Email on: Section 316(b) Rulemaking (Velocity) to Kelly Meadows, Tetra Tech, Inc. April 18, 2001.

2–028B Turnpenny, A.W.H. The Behavioral Basis of Fish Exclusion from Coastal Power Station Cooling Water Intakes. Central Electricity Generating Board Research Report, RD/L/3301/R88. 1988.

EPA also requests comment on the American Society of Engineers' Design of Water Intake Structures for Fish Protection (see #2–032 in the Docket) which suggests that design velocities should range from 0.5 ft/s to 1.5 ft/s. Based on comments and these documents, the Agency requests comment on allowing velocities of up to 1.5 ft/s at offshore intake structures with velocity caps in all types of waterbodies.

2–032 American Society of Engineers. Design of Water Intake Structures for Fish Protection. Section III. Engineering Factors Influencing Intake Design and Parts of Section VI. Practical Fish Protection Methods (Velocity Cap for Offshore Water Withdrawals). New York. pp. 13–23 and 66. 1982.

Finally, EPA is considering comments on where velocity should be measured. Some commenters assert that velocity should be measured on the basis of ''approach-velocity'' rather than the proposed design intake velocity (also known as through-screen or through-technology velocity). Other commenters assert that velocity should be measured where its value is highest, which might be at the screen face or at another location in front of the screen (for example, at a narrow constriction in an intake canal or at a narrow opening in a curtain wall placed in front of the screen). (See W–00–03, 316(b) Comments 2.06 (River Keeper) and 1.56 (EPRI). EPA is also providing for comment, the document contained in #2–033 in the Docket.

2–033 Ray, S.S., R.L. Snipes, and D.A. Tomljanovich. A State of the Art Report on Intake Technologies. Environmental Protection Agency Office of Research and Development, Office of Energy, Minerals, and Industry. EPA 600/7–76–020; TVA PRS–16. 1976.

4. Rulemaking Framework—Burden on States To Implement Section 316(b) on a Case-by-Case Basis

One objective of EPA's proposed rule was to develop section 316(b) requirements applicable to broad classes of waterbodies in order to minimize the permitting burden on the States (which, for the most part, are the permit authorities responsible for implementing section 316(b)). Some States have expressed concern about adopting a site-specific approach for new facilities which, in their view, would require a burdensome expenditure of resources to develop section 316(b) requirements for each new facility. States that commented on the proposed regulations, including Michigan, New York, New Jersey, and Alaska, generally supported the adoption of minimum technology requirements. Michigan and New Jersey specifically expressed concern about the existing case-by-case approach. Only Louisiana specifically opposed adoption of the proposed regulations, stating that any requirements for cooling water intake structures should be implemented under the CWA section 404 program or under section 10 of the Rivers and Harbors Act.

EPA invites comment on additional information documenting resources that several States have devoted to implementing section 316(b) on a case-by-case basis (see #2–034A–B in the Docket). EPA will consider this information as the Agency evaluates the practicality of various alternatives for the final rule. EPA invites commenters to submit any other data on the workload associated with implementing section 316(b) under the current case-by-case approach. EPA also invites comment on the need for nationally applicable regulations, as opposed to a site-specific approach, in order to minimize the burden on States for permitting new facilities. EPA invites comment again on its estimates of the cost to States to implement the proposed requirements (See #1–5067–PR, Information Collection Request for Cooling Water Intake Structures New Facility Proposed Rule, Chapter 6), and acknowledges that these costs may change based on any changes in the final regulations.

2–034A Sarbello, Bill, NYDEC. Memo to J.T. Morgan, EPA RE: Costs Associated with 316(b) Permitting Activities in NY State. February 26, 2001.

2–034B Reading, Jeffrey, NJDEP. Letter to Sheila Frace, EPA RE: Request for Information Regarding Staffing and Resources Required in Applying Section 316(b). April 24, 2001.

5. Recently-Constructed Facilities Already Implementing the Proposed New Facility Requirements

To estimate the percentage of manufacturers, utilities and nonutilities constructed in the last fifteen (15) years that meet various proposed requirements for cooling water intake structure technology, EPA performed an analysis using detailed questionnaire data. These preliminary data indicate that 47% of the recently-constructed manufacturers, 42% of the recently-constructed nonutilities, and 53% of the recently-constructed utilities meet the proposed requirement to install additional design and construction technologies such as a traveling screen with a fish return system, a wedge wire screen, or a fine mesh screen with a fish return system. (see #2–035A in the Docket).

EPA performed a similar analysis of the detailed questionnaire data to estimate what percentage of in-scope facilities constructed during the last 15 years meet the proposed requirement for reducing intake flow to a level commensurate with use of a recirculating cooling water system. These preliminary data show that 38% of the manufacturing facilities, 66% of the nonutility facilities, and 70% of the utility facilities have closed-cycle, recirculating cooling systems. (see #2–035B in the Docket). EPA is now working to verify the accuracy of these estimates as they appear to be lower than the estimated percentages in the record at proposal based on information from DOE's Energy Information Agency and RDI's NEWGen database.

Finally, EPA analyzed the detailed questionnaire data to estimate what percentage of the in-scope manufacturing, utility and nonutility facilities constructed in the last 15 years meet all three of the proposed

requirements for: (1) Reducing intake capacity to a level commensurate with use of a closed-cycle recirculating cooling system: (2) reducing intake velocity to no more than 0.5 ft/sec; and (3) developing a plan and installing additional design and construction technologies. The analysis shows that 16% of these manufacturers, 31% of these nonutilities, and 44% of these utilities meet all three performance and technology standards. (see #2–035C in the Docket). Based on these data, EPA is considering and invites comment on whether it is reasonable for new facilities to meet these proposed standards.

G. Revision in Costing and Energy Impacts Estimates

1. Energy Consumption Associated With Alternative Cooling Systems

At proposal, EPA invited comment on a regulatory alternative that would require zero or extremely low intake flow commensurate with levels achievable through the use of dry-cooling systems. EPA discussed and invited comment on a number of issues including any potential energy penalty at new facilities using dry-cooling systems.

Alternatives to conventional wet cooling towers or once-through systems are often described as dry cooling systems but, in fact, may include hybrid wet-dry cooling systems. These alternative cooling systems may be less efficient in rejecting heat than conventional wet cooling towers or once-through systems. Alternative cooling systems generally have higher parasitic (fan) electrical loads and can create a higher pressure (temperature) in the steam turbine condenser. Both of these factors can decrease the thermal efficiency and power output of the plant. Estimating the nature of this penalty is difficult given that the facility could be designed and operated in a variety of ways using one of these alternative cooling technologies. As discussed at proposal, climactic conditions may significantly influence the efficiency of alternative cooling systems (see 65 FR 49081). For instance, dry cooling systems can be less efficient during warmer periods than during cooler periods.

At proposal, EPA's discussion of energy inefficiency due to cooling requirements focused on energy penalties associated with the operation of dry cooling systems. Since proposal, EPA has sought out information measuring and/or estimating comparable efficiencies of cooling towers (wet, dry, and hybrid) to once-through cooling systems. EPA discovered some additional information comparing dry and hybrid cooling towers to wet cooling towers and obtained a limited amount of information on the topic through public comment. EPA invites comments on the following new data (see #2–036A–D in the Docket):

2–036A Pryor, Marc. ''Supplemental Testimony to the La Paloma Generating Project (98–AFC–2) Final Staff Assessment. California Energy Commission. April 20, 1999.

2–036B Western Area Power Administration Sierra Nevada Region Sutter Power Plant. ''Summary of the Presiding Members Proposed Decision on Other Commission Decisions'', Chapter 3. April 1999.

2–036C SAIC. Memo to File RE: Steam Plant Energy Penalty Evaluation. April 20, 2001.

2–036D Edison Electric Institute. Environmental Directory of Power Plants. 1996

EPA intends to revise the operation and maintenance costs of its estimates for wet and dry cooling towers to include the marginal cost of energy penalties. EPA intends to estimate any energy penalties as compared to cooling systems that new facilities would be likely to install absent final regulations. When EPA projects that a facility would switch from a once-through cooling system to a closed-cycle cooling system employing a wet cooling tower to comply with final regulations, EPA will estimate the energy penalty based on values derived from documents already in the record, the new materials referenced above, and similar sources of information. To project the energy penalty of dry cooling systems compared to once-through cooling systems, EPA will use its estimate of the energy penalty of a closed-cycle cooling system employing a wet cooling tower, then estimate any additional energy penalty imposed by use of a dry cooling system based on documents already in the record, the new materials referenced above, and similar sources of information. To project the energy penalty of dry cooling towers compared to a closed-cycle cooling system employing a wet cooling tower, EPA will estimate the energy penalty based on documents already in the record, the new materials referenced, and other relevant sources of information.

2. Specific Revisions to Inputs to Costing Model for Wet Cooling Towers and Dry Cooling Systems

Some public comments on the proposed regulations assert that EPA's annual cost estimates for wet cooling towers did not include essential components such as wiring, foundations, condenser pumps, and noise attenuation treatment. EPA did not separately identify these items in the estimates presented at the time of proposal because the Agency used empirical models based on actual construction project costs to verify its costing estimates. These empirical models represent the cost to the plant and include all essential components. However, to further document the annual costs that EPA used in its cost estimates for wet cooling towers, EPA requests comment on the new data in EPA's April 23, 2001 memorandum titled, ''Supporting Documentation for Unit Costs'' contained in #2–037 of the Docket.

Since proposal, EPA collected additional project cost information to verify its empirical cost models. EPA requests comment on the capital cost information contained in #2–037 of the Docket.

Based on literature and vendor information, EPA's proposal estimated a 10 degree Fahrenheit design approach value for wet cooling towers. EPA requests comment on information contained in #2–037 of the Docket in support of this value.

EPA proposed that operation and maintenance (O&M) costs of wet cooling towers reflect an ''economy of scale'' with increasing size. Therefore, in some cases, as the size of the cooling tower increases, O&M costs decrease per unit of water cooled. EPA is supplementing the record to support its assumption that there are ''economies of scale'' based on comments received on the proposal. EPA has placed information in the record to support EPA's methodology for calculating O&M costs for wet cooling towers (see #2–037 in the Docket).

At proposal, EPA assumed that some new facilities would use once-through cooling systems absent final regulations and would switch to a closed-cycle cooling system employing a wet cooling tower. In these cases, EPA costed the water flow used in the recirculating cooling tower as 15 percent of the original flow. EPA acknowledges that this assumption does not match standard industry design practice. EPA intends to revise its estimates of recirculating flow upward based on the entire flow of cooling water through the cooling tower and will size and cost the recirculating pumps accordingly.

EPA's proposed wet cooling tower costs may have included elevated capital costs due to a design estimate that plume abatement would be applied at a large proportion of the cooling towers built as a result of the regulations. Since proposal, EPA sought

additional information regarding industry practice for wet cooling tower construction and the use of plume abatement. Through vendor contact, EPA learned that wet cooling towers generally do not incorporate plume abatement technologies. Therefore, EPA intends to revise its wet cooling tower estimates to reflect a reduced implementation of plume abatement techniques. EPA also intends to study the sensitivity of costs with respect to this aspect of its cost estimates. (See #2–037 in the Docket.)

At proposal, EPA estimated the marginal annual cost of dry cooling towers over once-through cooling systems but did not explain its methodology for estimating the capital and O&M costs of dry cooling towers. EPA invites comment on the information the Agency used to estimate annual costs of dry cooling towers placed in the record. (See #2–037 in the Docket.)

EPA obtained further information relating to the capital cost of dry cooling towers since proposal. The Agency invited comment on the following information:

2–037 EPA. Memo to File RE: Supporting Documentation for Unit Cost Analysis. April 23, 2001.

In addition, EPA invites comment on the following documents:

2–036A Pryor, Marc. Supplemental Testimony to the La Paloma Generating Project (98–AFC–2) Final Staff Assessment. California Energy Commission. April 20,1999.

2–036B Western Area Power Administration Sierra Nevada Region Sutter Power Plant. Summary of the Presiding Members Proposed Decision on Other Commission Decisions, Chapter 3. April 1999.

EPA also obtained information on the cost of dry cooling systems through public comment. Cost information, as well as general comments received on dry cooling are included in the public record: (See #2–038A–B in the Docket.)

2–038A Dougherty, Bill. Comments on the EPA's Proposed Regulations on Cooling Water Intake Structures for New Facilities. Tellus Institute. November 8, 2000.

2–038B Burns Engineering Services, Inc. and Wayne C. Micheletti, Inc. Comparison of Wet and Dry Cooling Systems for Combined Cycle Power Plants. November 4, 2000.

2–038C Public Comments on Dry Cooling in Response to Proposed Rule of August 10, 2000.

3. Other Environmental Impacts

EPA discussed the water quality and non-water quality impacts of cooling towers (both wet and dry) at proposal (see 65 FR 49075 and 65 FR 49081). However, EPA did not quantify all impacts that may result from implementation of the rule. For the final rule, EPA intends to estimate, to the extent possible, the marginal increases in emissions of air pollutants associated with wet and dry cooling towers. The Agency intends to compare projected emissions under the rule to projected emissions absent the rule. (At proposal, EPA projected that, regardless of the outcome of the rule (that is, absent these regulations) a majority of units would have wet cooling towers and a minority would have once-through or dry cooling systems.)

EPA may estimate air emissions using the permit application calculations required by the Colorado Department of Public Health and Environment (CDPHE), Colorado Air Pollution Control Division, Stationary Sources Program. This program requires emissions estimates for new power generating permits according to the codified guidance at 40 CFR chapter 1, appendix W to part 51 (July 1, 1999). The technique would use emissions factors from the Compilation of Air Pollutant Emission Factors, Volume I (AP–42) for stationary turbines and derive estimates of pollutant emissions for each type of unit. EPA would adjust the emissions estimates, when appropriate, to reflect a marginal comparison by using energy penalty estimates. For example, in the case where EPA examines any increase in emissions of air pollutants due to dry cooling, it would base this estimate on a calculation of any energy penalty associated with dry cooling as compared to energy use at plants projected to install wet closed-cycle cooling systems or once-through cooling systems absent these regulations. EPA expects that a small fraction of facilities would not experience any increased air pollutant emissions because that they are projected to use dry cooling, regardless of the outcome of the rule.

Alternatively, EPA may estimate air emissions using the Emissions & Generation Resource Integrated Database (E–GRID2000). This database integrates data from 18 different federal sources and provides emissions and resource mix data for every plant, electric generating company, state and region in the country. From E-Grid 2000, EPA may generate an emission rate per MWh or loaded hour for NO_X, SO_2, CO_2, and Hg to estimate increased emissions at plants that consume additional fuel because they install a wet or dry cooling tower to comply with final regulations. Such an analysis would presume that an individual plant increase its loading in order to meet this energy cost as opposed to delivering less power to the grid which in turn would be made up by a different plant.

The following references are included in the record for public review. (See #2–039A–C in the Docket.)

2–039A Kendal, Ashley L. Technical Review Document Operating Permit 960PMR153. March 16, 1998.

2–039B 40 CFR Ch.1 (7–1–99 Edition). Pt. 51, App. W. Pages 390–481.

2–039C EPA. AP–42, Fifth Edition, Volume 1 [Section 3.1]. April 2000. (Available at: http://www.epa.gov/ttn/chief/ap42.)

4. Baseline Biological Characterization Study and Impingement and Entrainment Monitoring During the Permit Term

EPA's proposed regulations would require a permit applicant to complete a ''source water baseline biological characterization'' based on at least one year of pre-operational biological monitoring (proposed 40 CFR. 125.86). The applicant would use this information to develop a plan for installing additional design and construction technologies (such as screens, or barrier nets, or well-designed return systems for impinged fish). This information would also support the permitting agency (in most cases, a State) in considering whether site-specific conditions warrant more than the baseline regulatory protections (see proposed 40 CFR 125.84(f) and (g)). The proposed regulations would also require permittees to conduct impingement monitoring over a 24-hour period once per month during the first two years of the permit and to conduct entrainment monitoring over a 24-hour period no less than biweekly during the period of peak reproduction and larval abundance. After two years, the permitting agency could reduce impingement and entrainment monitoring frequency in the remaining permit term and when the permit is reissued (proposed 40 CFR 125.87).

The July 2000 ''Information Collection Request for Cooling Water Intake Structures New Facility Proposed Rule'' (ICR) estimated costs for the Sourcewater Baseline Characterization Activities and for entrainment and impingement monitoring based on Bureau of Labor Statistics base wage rates multiplied by time spent in each labor category. Direct Labor Costs and Operation and Maintenance Costs were added to estimate the burden and costs per facility. The ICR states that the Sourcewater Baseline Characterization costs would include $19,500 for contracted laboratory assistance with monitoring, taxonomy and data

tabulation (plus $500 for other direct costs (ODCs)). Similarly, text in the ICR states that contracted lab costs for entrainment and impingement monitoring would amount to $19,500 and $4,580, respectively (plus $500 in ODCs). Tables 7 and 8 of the ICR indicate that the Sourcewater Baseline Characterization would cost each facility $11,655 in labor and $750 in ODCs; entrainment monitoring would cost $14,675 in labor and $4,000 for ODCs; and impingement monitoring would cost $6,736 labor plus $2,000 ODCs. However, the contracted laboratory costs discussed in the text of the ICR are not included in these tables. Thus, to eliminate confusion about EPA's estimated costs for biological monitoring in the ICR, the Agency states that it used the following cost estimates at proposal: approximately $32,000 for Sourcewater Baseline Characterization per facility; approximately $38,000 annually for entrainment monitoring per facility; and approximately $13,000 annually for impingement monitoring per facility. These costs were considered an average cost for all types of waterbodies combined.

EPA received comment from several commenters, including UWAG and EPRI, asserting that EPA's proposal underestimated the costs of biological monitoring (see UWAG comments at W–00–03, 316(b) Comments 1.68 and EPRI's comments at W–00–03, 316(b) Comments 1.56). As discussed in the memorandum, ''316(b) Monitoring Cost Estimates for New Facilities,'' EPA has refined its cost estimates and believes it should use cost ranges that, for the sourcewater baseline characterization and entrainment monitoring, vary for different types of waterbodies. EPA invites comment on the following revised cost estimates. (See #2–040 in the Docket.)

- Sourcewater Baseline Characterization: $8,000 to 25,000 for a freshwater stream/river; $8,000 to 35,000 for a lake/reservoir; $8,000 to 50,000 for an estuary/tidal river; and $8,000 to 70,000 for an ocean.
- Biological Monitoring—Entrainment: $15,000 to 40,000 for a freshwater stream/river; $15,000 to 40,000 for a lake/reservoir; $20,000 to 50,000 for an estuary/tidal river; and $20,000 to 50,000 for an ocean.
- Biological Monitoring—Impingement: $10,000 to 25,000 for a freshwater stream/river, a lake/reservoir, an estuary/tidal river and an ocean.

To develop these cost estimates, the Agency consulted biological monitoring practitioners who conduct impingement, entrainment and other types of biological monitoring studies. These revised estimates reflect that the equipment, effort and expertise needed to sample an ocean facility, for example, would be more costly than that needed to monitor a facility located on a stream or small river.

EPA received comment asserting that a one-year sourcewater biological characterization would provide information of limited utility, particularly in estuarine and coastal areas where fish populations exhibit tremendous inter-annual variability (see EPRI comments at W–00–03, 316(b) Comments 1.56 in the Docket). Among other concerns, this commenter asserted that the baseline year may not represent average population characteristics. In response to these comments, EPA invites comment on the documents located in #2–041 in the Docket. This information generally supports the assertion that a multi-year baseline reduces the confounding effect of year-related phenomenon on assessments and (see EPA 1990, referenced below) provides a better basis for evaluating management actions:

2–041A Meador, M.R., T.F. Cuffney and M.E., Gurtz. Methods for sampling fish communities as a part of the National Water Quality Assessment Program. U.S. Geological Survey Open-File Report 93–104. Raleigh, North Carolina. 40p. 1993.

2–041B Leahy, P.P., J.S. Rosenshein, and D.S. Knopman. Implementation plan for the National Water Quality Assessment Program. U.S. Geological Society. Open-File Report 90–174, 10 p. 1990.

2–041C Holland, A.F. (ed)., EPA. Environmental Monitoring and Assessment Program-Near Coastal Program Plan for 1990: Estuaries, Chapter 2. 1990.

EPA is considering and invites comment on whether it should extend the time period for the baseline biological characterization study for tidal rivers, estuaries, and oceans to address inter-annual variability of fish populations in these areas.

H. Industry Approach

- *Fast-Track Alternative*

In comments on the proposed regulations and in other materials EPA recently received, the Utility Water Act Group (UWAG), an industry trade association, has suggested that EPA consider an alternative based on several of the regulatory alternatives EPA described at proposal (see UWAG. Email to EPA RE: Brief Description of a Two-track Process. April 12, 2001, in #2–042 in the Docket). Under this approach, a company seeking to build a new facility could pursue one of two tracks: either (1) to commit to one or more of a number of specified technologies deemed to represent highly protective technology at the outset or (2) to engage in a site-specific study to determine the best technology available (BTA) for the site.

Under Track 1 (the ''fast track''), an applicant would commit to install highly protective technologies in return for expedited permitting without the need for pre-operational or operational studies in the source waterbody. Such fast-track technologies might include:

1. Any technologies that limit intake flow to the flow that would be required by wet closed-cycle cooling at that site and that has an average approach velocity (measured in front of the cooling screens or the opening to the cooling water intake structure) of no more than 0.5 fps; or

2. Any technologies that will achieve a level of protection from impingement and/or entrainment that is within the range expected under Option 1 for closed-cycle cooling (with 0.5 fps approach velocity) on the type of waterbody where the facility is to be located. This option is intended to allow facilities to use either standard technologies, or new ones, that have been demonstrated to be effective for the species, type of waterbody, and flow volume of the cooling water intake structure proposed for their use. Examples of candidate technologies would include:

a. Wedgewire screens where there is constant flow, as in rivers;

b. Traveling fine mesh screens with a fish return system designed to minimize entrainment and impingement mortality; and

c. Gunderbooms at sites where they would not be rendered ineffective by high flows or fouling.

If the operator of a new facility chose to install such highly protective intake technologies and validated their performance, as necessary, the permitting agency would not require additional section 316(b) protective measures for the life of the facility, unless EPA established different technology requirements by rulemaking.

UWAG believes that the record developed to date indicates that the combination of flows associated with closed-cycle cooling and low intake velocity reduce entrainment and impingement mortality to such low levels that adverse environmental impact (''AEI'') is avoided thereby not just meeting, but exceeding the section 316(b) standard of protection. UWAG also believes that information in the record and additional materials described in Section H.2. below demonstrates that other technologies,

including those above, when used properly, may provide a level of protection within the same range and thus would also be highly protective of aquatic resources.

Closed-cycle cooling and extremely low approach velocities have been used to avoid levels of entrainment and impingement mortality that could cause adverse environmental impact. Nevertheless, UWAG states that some interested parties have argued that EPA cannot support a finding that such technologies constitute BTA due to factors such as very high capital and other costs compared to environmental benefits, cross-media effects, site-specific factors (such as land constraints or habitat or air emissions concerns), or jurisdictional issues regarding cooling towers (which some commenters argue are part of the cooling system, not ''intake structure'' technologies). These stakeholders argued that such low flows and velocities are far more conservative than needed to meet the statutory standard of ''best technology available to minimize adverse environmental impact.'' This objection would be beside the point under this alternative, because EPA would not define these technologies as BTA for ''minimizing'' adverse environmental impact but instead determine that they avoid adverse environmental impact altogether. Using this approach, the final rule would reflect EPA's determination that, where the permittee proposes to use a demonstrated technology that meets the above criteria, the technology would, in almost every case, avoid adverse environmental impact and exceed the requirements of section 316(b). UWAG believes that financing issues associated with uncertainty and delay during periods of pre-permitting biological study (described in Section H.3 below) would make the fast-track option highly desirable for many new facility applicants who otherwise might face significant difficulties that are building new facilities that are urgently needed to meet increased demand for electricity.

UWAG also suggested that, in conjunction with its fast-track alternative, EPA should use a similar approach to encourage rather than foreclose alternative or innovative intake structure technologies that provide a level of protection reasonably consistent with the criteria established above. If a proponent of a new facility knows of an alternative technology but cannot try it without extensive pre-operational site-specific studies, he or she may not be inclined to take the risk of developing the new technology. To remove this disincentive, EPA could allow expedited permitting when an applicant can demonstrate, as part of its permit application, that the intake structure technology it proposes will achieve a level of protection reasonably consistent with the criteria established in Option 1 above. Such a demonstration would not require source waterbody studies. It might instead be based on successful use of the innovative technology at a comparable site or successful testing in a laboratory or a pilot-scale trial. Some monitoring after the facility begins operating may be appropriate to validate the design performance of alternative technologies.

In addition, UWAG suggests that, as part of this approach, EPA could in the future approve additional, alternative ''fast-track'' technologies based on accumulated experience. There could potentially be unusual species-specific circumstances in which fast-track technologies meeting the above criteria would not be sufficient to avoid adverse environmental impact. While, in UWAG's view, the number of such sites will be very small, the rule could nevertheless give permit writers the authority to require additional protective technology if the permitting agency has information that exceptional conditions exist such that, even with fast-track technology, the proposed facility would adversely impact a representative indicator species in a way that other federal or state requirements, such as the Endangered Species Act, would not prevent. EPA invites comments on those proposals as well.

Track 2 of the industry approach would be for facilities and sites for which the applicant does not want to commit to any of the above technology options but believes that a close look at site characteristics, including the local biology, would justify another intake technology, such as once-through cooling. For these situations, the applicant could demonstrate to the permitting agency, based on site-specific studies, either that the proposed intake would not create an appreciable risk of adverse environmental impact or, if it would create an appreciable risk of adverse environmental impact, that the applicant would install technology to ''minimize'' adverse environmental impact. Such demonstrations would recognize that some entrainment and impingement mortality can occur without creating ''adverse environmental impact,'' but, where there was an appreciable risk of adverse environmental impact, the technology that would ''minimize'' it would also be the technology that maximized net benefits. If the proposed intake created an appreciable risk of adverse environmental impact, the applicant would have to identify all reasonably available intake structure technologies that would reduce the impact to the aquatic community and that would be feasible for the site. The applicant would also estimate both the costs and benefits of each such technology, including the impacts of the cooling water intake structure on aquatic biota, as well as the monetary costs of construction and operation, energy costs, and environmental costs such as air pollution, aesthetics, and land use. Summing the costs and benefits for each ''available'' technology, the permittee would choose as ''best'' the one that had the highest net benefit. Industry asserts that efficient methods for assessing costs and benefits, based on a variety of federal precedents, might be developed to determine the net benefits without undue delay or uncertainty. Industry did not specify what federal precedents or methods for assessing benefits would be applied.

Under the industry approach, the second track would not require the same type or intensity of study for every site or every proposed plant design. In designing a Track 2 study to determine whether there is an appreciable risk of adverse environmental impact and, if so, what will ''minimize'' it, the applicant and permitting agency could apply a series of tests to focus the study. First, no further study would be necessary if the intake draws its water from an area not designated for protection of fish or aquatic life (in accordance with the requirements of 40 CFR part 131) or an area that does not support or could not support vulnerable life stages of representative indicator species due to lack of dissolved oxygen or for other reasons. Second, an intake structure would not have to be assessed for entrainment if it withdraws an amount no greater than a given percentage of the source waterbody that has proven to be extremely conservative. (UWAG asserts that some interested parties have suggested a value of 5% or less of the 90% exceedance flow of a river [2] or 5% or less of the volume of the biological zone of influence in a lake or reservoir, measured when entrainable life stages of representative indicator species are present.) Third, the proposed facility would not have to be assessed for entrainment if it were designed to

[2] In this case, a facility would not require entrainment assessment if it withdrew 5% or less of the low flow condition that is exceeded in a river at least 90% of the time.

ensure that entrainment losses of equivalent adults would be less than a value that has generally proven to be highly conservative or not inconsistent with fishery management plans. (Some interested parties, UWAG asserts, have suggested values equal to or less than 1% of the population of any commercially or recreationally important species and equal to or less than 5% of the population of non-harvested species.) The permitting agency would consider survival rates for entrained representative indicator species in applying this test.

Under the industry-suggested Track 2 approach, some proposed new facilities might be able to use the Track 2 tests to show that they would not cause adverse environmental impact and, therefore, would need no further analysis. Others might find that the Track 2 tests eliminated from concern some risks (entrainment, for example) or some species. For these proposed facilities, once the necessary studies had been focused by the Track 2 tests, the applicant would assess the likelihood that the intake would cause an appreciable risk of adverse environmental impact. They would use a process like that outlined in EPA's Ecological Risk Assessment Guidelines (see #2–020D in the docket), using biological, locational, design, and operational data from the site. If the study showed an appreciable risk of adverse environmental impact, then the applicant would be obligated to identify all reasonably available technologies that would be feasible at the site. It would then perform the cost-benefit analysis described above to determine which technology would maximize net benefits. EPA requests comment on this approach.

In considering the industry approach, EPA also solicits comment on the following potential modifications. EPA is considering a fast-track approach that would be based on a commitment by the facility to employ a suite of technologies that would be determined to represent BTA for the fast-track option. The technologies under consideration are: reduction in capacity commensurate with that achievable by use of a closed-cycle cooling system; a velocity limitation of less than or equal to 0.5 ft/sec; and location where intake capacity would be no more 5% of the mean annual flow or 25% of the 7Q10 flow of a freshwater stream or river, no more than 1% of the tidal excursion volume of a tidal river or estuary, or where the intake capacity would not disrupt the natural stratification and turnover patterns of a lake or reservoir. EPA is also considering designating the following two additional design and construction technologies as part of a fast-track, BTA suite of technologies: a fine mesh traveling screen with a fish return system, variable speed pumps and a low pressure spray; or a submerged wedgewire fine mesh screen. (By contrast, industry's suggested approach would be that in order to qualify for fast track permitting, facilities would commit to either low velocity, closed-cycle cooling *or* a once-through cooling system with an intake equipped with one of a number of other technologies, e.g., wedge wire screens, fine mesh traveling screens with a fish return system, or Gunderbooms, based on a determination in the final rule that these other technologies may be as effective as closed-cycle cooling with a velocity limit of 0.5 ft/sec for purposes of reducing impingement and entrainment for the species, type of waterbody, and flow volume of the cooling water intake structure proposed for their use.)

Under the modification EPA is considering, the fast-track technologies and performance standards would reflect levels that some newer facilities have achieved. Based on data on existing facilities in the record at proposal, EPA estimates that almost all new facilities are likely to meet the proposed proportional flow standard for freshwater rivers (total intake flow less than 5% of mean annual flow or 25% of the low flow that occurs over a one-week period no more than once every 10 years) and for estuaries and tidal rivers (total intake flow no greater than one percent of the volume of the water column within the area centered about the opening of the intake with a diameter defined by the distance of one tidal excursion at the mean low water level). As discussed at Section F.5 above, 16% of the manufacturing, 31% of the nonutility and 44% of the utility facilities constructed in the last 15 years meet all three of the proposed requirements for: (1) Reducing intake capacity to a level commensurate with use of a closed-cycle recirculating cooling system; (2) reducing intake velocity to no more than 0.5 ft/sec; and (3) developing a plan and installing additional design and construction technologies. (See #2–035C in the Docket). Under this approach, EPA would define these technologies as BTA for the fast-track option.

Other alternatives for fast-track technologies include:

- Dry cooling, either at all locations or in certain waterbodies determined to be particularly sensitive to impacts from cooling water intake structures, or in certain regions in the country where dry cooling is demonstrated, or at certain sizes of facilities where dry cooling is particularly well-demonstrated;
- Differing suites of ''fast-track'' technologies based on the type of waterbody or the facility's location within a waterbody (e.g., adding additional fast-track technologies in tidal rivers and estuaries over those required in the parts of oceans, freshwater rivers and streams, and lakes and reservoirs that may be designated as less sensitive than other parts of these areas).

EPA also invites comment on other possible modifications to the industry fast-track option:

- EPA is considering a modification where limited pre-operational monitoring would be required. Under this approach, the planned facility would be required to monitor at the proposed site during the time of year of highest egg and larval abundance, which should correspond to the peak period for impingement and entrainment vulnerability. To the extent that the proposed year-long timeframe for pre-operational monitoring could result in significant delay in building a new facility, this modification might reduce those delays for some or many facilities. However, EPA recognizes that, depending on construction schedules and how they relate to the time of year when monitoring would be required this modification could limit the usefulness of the fast track approach for some new facilities.
- EPA is considering a modification where the permit would contain some or all of the proposed operational monitoring requirements at proposed 40 CFR 125.87, 65 FR 49121 or a reduced frequency of operational monitoring requirements.
- EPA is considering a modification where the permitting authority (most often a State) would retain authority to revisit section 316(b) requirements at permit renewal based on the facility's impingement and entrainment monitoring data or other new information (see proposed 40 CFR 125.84(f) and 40 CFR 125.84(g)).
- EPA is considering a modification where the Director (usually, a State official) could require pre-operational studies under circumstances similar to those described in proposed 40 CFR 125.84(f), 65 FR 49119, and/or proposed 40 CFR 125.84(g), 65 FR 49119 or at the Director's discretion. For example, the Director might require pre-operational monitoring if he or she determines it is reasonably necessary as a result of the effects of multiple cooling water intake structures in the same body of water (40 CFR 125.84(f) or it is reasonably

necessary to ensure attainment of water quality standards (40 CFR 125.84(g)).

EPA is also considering and invites comment on the following modifications to the industry's Track 2 option:

• EPA is considering a modification where, in all but exceptional or unusual circumstances (e.g., where a State or Tribe has designated a waterbody as having no use for supporting the propagation or maintenance of aquatic life and EPA has approved the revised use). A Track 2 facility would need to conduct a site-specific study that, at a minimum, meets the proposed requirements for a one-year source water baseline biological characterization at proposed 40 CFR 125.86 or, alternatively, for oceans, tidal rivers and estuaries, a longer study period might be required as discussed at Section G.4.

• Under the industry approach, an intake structure would not have to be assessed for entrainment if it withdraws an amount no greater than a given percentage of the source waterbody. The industry approach suggests a value of 5% or less of the 90% exceedance flow of a river or 5% or less of the volume of the biological zone of influence in a lake or reservoir, measured when entrainable life stages of representative indicator species are present. EPA is analyzing these proposed screening criteria at one location. As discussed in an EPA Memorandum to the Record titled ''Utilities Proposal Re: Assessment for Entrainment,'' April 19 2001 (see Docket #2–043 in the Docket), at one location for which data are readily available, the threshold proposed by industry for entrainment assessment in rivers would equal about 40% of the maximum allowable intake flow that EPA proposed. EPA is considering the industry approach and a modification where an applicant would not have to assess potential entrainment impact if an intake structure withdrew a proportion of waterbody flow or volume significantly less than any final limitations for proportional flow, such as those at proposed 40 CFR 125.84. (EPA proposed that a facility withdraw no more than 5% of the mean annual flow or 25% of the 7Q10 flow of a freshwater river or stream. For tidal rivers and estuaries, a facility could withdraw no more than 1% of the volume of the water column within the area centered about the opening of the intake with a diameter defined by the distance of one tidal excursion at the mean low water level.) EPA invites comment on potential screening levels for entrainment assessment. EPA is currently considering screening levels between 1% and 50% of any final proportional flow limitations, but invites comment on other levels as well. To address concerns that a very large facility on a large waterbody might entrain a large number of aquatic organisms, EPA also invites comment on a possible screening level for entrainment assessment based on the total intake flow at a facility. EPA is currently considering a range of 2 MGD (equivalent to EPA's proposed regulatory threshold) to 15 or 25 MGD, but invites comments on other levels. Section A above provides perspective on the percentage of facilities and flows that would require entrainment assessment at these thresholds. EPA has not yet analyzed industry's suggested screening threshold for entrainment assessment in lakes and reservoirs. The Agency invites comment on whether this is a reasonable threshold, and on other potential screening thresholds for lakes and reservoirs, or other waterbodies such as estuaries, tidal rivers and oceans.

• Under the industry approach, a proposed facility would not be assessed for entrainment unless it exceeded both a flow-based threshold and a population-based threshold (see previous bullet for discussion of the flow-based threshold). The population-based threshold would be designed to ensure that entrainment losses of equivalent adults would be less than a value that, in industry's view, has generally proven to be highly conservative or not inconsistent with fishery management plans. Industry states that some interested parties have suggested values equal to or less than 1% of the population of any commercially or recreationally important species and equal to or less than 5% of the population of non-harvested species. EPA requests comment on a modification that would require that entrainment should be assessed if it exceeds *either* a flow-based threshold, or a threshold based on equivalent-adult losses. EPA is also considering a modification that would require entrainment assessment above a threshold as low as 1% or as high as 50% of those organisms that occupy or pass-through the area from which source water moves into the intake. Alternatively, EPA might use concepts from the 1977 Draft Guidance for Evaluating the Adverse Impact of Cooling Water Intake Structures on the Aquatic Environment to focus entrainment assessment on potential impact on organisms in the ''primary study area,'' ''the secondary study area,'' or the ''zone of potential involvement.'' (These are areas where biota may be drawn into or affected by a cooling water intake structure.) EPA requests comment on the use of any of these definitions from its 1977 Guidance to define areas for which entrainment assessments would be required. EPA is currently considering a range of 1% to 5% as a quantitative screening requirement in conjunction with any of these definitions, but invites comment on percentages outside of this range.

• Under the industry approach, if a Track 2 site-specific study showed an appreciable risk of adverse environmental impact, the applicant would have to identify all reasonably available technologies that would be feasible at the site. It would then perform the cost-benefit analysis to determine which technology would ''maximize net benefits.'' The industry approach does not define how to maximize net benefits. However, industry comments suggest an approach that would involve determining applicable fish protection alternatives, assessing their incremental monetary costs and benefits to the extent feasible, major uncertainties in the analysis, and whether relevant costs or benefits have not been quantified. The applicant would then develop a BTA choice that is likely to maximize net benefits in that particular case. EPA invites comment on whether it would be appropriate to ensure that such site-specific cost-benefit studies include assessment of the following categories of data and ecological risks and benefits: numbers of individuals of various species and age-classes impinged and entrained for each technology alternative; commercial or recreational fishing opportunities enhanced or foregone; and/or other categories of benefits such as impact on other recreational opportunities (e.g., birding related to bird populations that are in part dependent on fish populations). EPA also invites comment on whether such studies should be based upon a single-year or multiple-year baseline. Finally, EPA is considering other economic analyses that could support a Track 2 decision on appropriate technologies and/or performance standards. The Agency invites comment on whether it should use the ''wholly disproportionate'' cost-benefit test that has been previously used in many case-by-case section 316(b) decisions or one of the economic affordability tests described at proposal.

2. Documentation for the Assertion That Appropriately Applied Existing Technologies Can Reduce Fish Losses to Levels Reasonably Consistent With Wet Cooling Towers With Low-Velocity

UWAG asserts that, at certain sites and under certain conditions, technologies such as wedge wire screens, fine mesh traveling screens with a fish return system, and Gunderbooms can be used at intakes with a capacity commensurate with once-through cooling and can reduce losses from entrainment and impingement to levels reasonably consistent with those of an intake structure with a capacity commensurate with use of a wet, closed-cycle cooling system and an intake velocity of no more than 0.5 feet per second. In the document, ''Existing Technologies Which, Appropriately Applied, Can Reduce Fish Losses to Levels Reasonably Consistent with Wet Cooling Towers,'' April 18, 2001 (see #2–044A in the Docket), UWAG provides data that it asserts supports this position. UWAG also discusses this assertion in the document ''Reasonably Consistent,'' April 20, 2001 (see #2–044B in the Docket). These data and information are intended to support the alternative industry approach discussed in section H.1. of this Notice. EPA is evaluating the UWAG assertions and will consider any public comments on them.

3. Financial Issues That Necessitate Minimal or No Pre-Permit Biological Study

As discussed in the document, ''Financial Ramifications of Pre-operational Biological Monitoring Requirements'' (see #2–045 in Docket), UWAG asserts that delays associated with EPA's proposed requirements for pre-operational biological monitoring could have significant costs for the facilities required to conduct such monitoring. These costs would include the replacement value for electricity not generated because new facilities did not enter the market as quickly as they might have without the requirement. UWAG also asserts that these delays will increase the costs of financing for a new facility because the lender will be taking a greater risk over a longer term for a facility that does not yet have a permit. EPA solicits comment on specifically how much the cost of financing would increase for a new facility based on such delay and uncertainty. UWAG further asserts that the pre-operational biological monitoring requirement will create an incentive to build plants that are not subject to this requirement and its associated delays and produce more expensive electricity. These data and information are intended to support the alternative industry approach discussed in Section H.1. of this Notice. EPA is evaluating and invites public comment on the UWAG assertions. EPA is very interested in evaluating any impact these regulations may have on new facility construction. EPA invites the public to provide detailed information on the extent to which a year-long, pre-operational biological monitoring program might lengthen the timeframes for new facility development beyond those normally associated with, for example, site selection, financing, construction, local permitting, and environmental assessments conducted under other federal, state or local requirements.

III. General Solicitation of Comment

EPA encourages public participation in this rulemaking and requests comments on this notice of data availability supporting the proposed rule for cooling water intake structures for new facilities.

EPA invites all parties to coordinate their data collection activities with the Agency to facilitate mutually beneficial and cost-effective data submissions. Please refer to the **FOR FURTHER INFORMATION** section at the beginning of this preamble for technical contacts at EPA.

To ensure that EPA can properly respond to comments, the Agency prefers that commenters cite, where possible, the paragraph(s) or sections in the document or supporting documents to which each comment refers. Please submit an original and two copies of your comments and enclosures (including references).

Dated: May 16, 2001.

Diane C. Regas,

Acting Assistant Administrator, Office of Water.

[FR Doc. 01–13187 Filed 5–24–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. AK–01–003a; FRL–6986–5]

Clean Air Act Attainment Extension for the Fairbanks North Star Borough Carbon Monoxide Nonattainment Area: Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: We propose to grant the one (1) year attainment date extension request for the Fairbanks North Star Borough carbon monoxide (CO) nonattainment area submitted by the State of Alaska on March 29, 2001. In the Final Rules section of this **Federal Register**, we are approving the State's extension request as a direct final rule without prior proposal because we view this as a noncontroversial action and anticipate no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated in relation to this rule. If we receive adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments on this proposed rule must be received on or before June 25, 2001.

ADDRESSES: Written comments should be addressed to: Connie Robinson, EPA, Region 10, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, WA 98101. Copies of documents relevant to this action are available for public review during normal business hours (8:00 a.m. to 4:30 p.m.) at this same address.

FOR FURTHER INFORMATION CONTACT: Connie Robinson, EPA, Region 10, Office of Air Quality, (OAQ–107), 1200 Sixth Avenue, Seattle, WA 98101, (206) 553–1086.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations section of this **Federal Register**.

Dated: May 16, 2001.

Charles Findley,

Acting Regional Administrator, Region 10.

[FR Doc. 01–13274 Filed 5–24–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[Docket No. AK–01–002; FRL–6986–6]

Finding of Attainment for Carbon Monoxide; Anchorage CO Nonattainment Area, Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rule.

SUMMARY: EPA is proposing to find that the Anchorage nonattainment area in Alaska has attained the National Ambient Air Quality Standards (NAAQS) for carbon monoxide as of December 31, 2000.

DATES: Written comments must be received on or before June 25, 2001.

ADDRESSES: Written comments should be mailed to Connie Robinson, Office of Air Quality, Mailcode OAQ–107, EPA Region 10, 1200 Sixth Avenue, Seattle, Washington, 98101. Copies of documents relevant to this action are available for public review during normal business hours (8:00 A.M. to 4:30 P.M.) at this same address.

FOR FURTHER INFORMATION CONTACT: Connie Robinson, Office of Air Quality Mail Code OAQ–107, EPA Region 10, 1200 Sixth Avenue, Seattle Washington, 98101, (206) 553–1086.

SUPPLEMENTARY INFORMATION: Throughout this document, the words ''we,'' ''us,'' or ''our'' means the Environmental Protection Agency (EPA).

Table of Comments

I. Background

A. Designation and Classification of CO Nonattainment Areas

The Clean Air Act (CAA) Amendments of 1990 authorized EPA to designate areas across the country as nonattainment, and to classify these areas according to the severity of the air pollution problem. Pursuant to section 107(d) of the CAA, following enactment on November 15, 1990, States were requested to submit lists, within 120 days, which designated all areas of the country as either attainment, nonattainment, or unclassifiable for CO. The EPA was required to promulgate these lists of areas no later than 240 days following enactment of the CAA Amendments (see 56 FR 56694, (November 6, 1991)).

On enactment of the CAA Amendments, a new classification structure was created for CO nonattainment areas, pursuant to section 186 of the CAA, which included both a moderate and a serious area classification. Under this classification structure, moderate areas with a design value of 9.1–16.4 ppm, were expected to attain the CO NAAQS as expeditiously as practicable, but no later than December 31, 1995. CO nonattainment areas designated as serious, with a design value of 16.5 ppm and above, were expected to attain the CO NAAQS as expeditiously as practicable, but no later than December 31, 2000.

States containing areas designated as either moderate or serious for CO had the responsibility of developing and submitting to EPA State Implementation Plans (SIPs) which addressed the nonattainment air quality problems in those areas. The EPA issued general guidance concerning the requirements for SIP submittals, which included requirements for CO nonattainment area SIPs, pursuant to Title I of the CAA (see generally, 57 FR 13498 (April 16, 1992), and 57 FR 18070 (April 28, 1992)). The air quality planning requirements for moderate and serious CO nonattainment areas are addressed in sections 186–187 respectively of the CAA, which pertain to the classification of CO nonattainment areas, as well as to the requirements for the submittal of both moderate and serious area SIPs.

The EPA has the responsibility for determining whether a nonattainment area has attained the CO NAAQS by the applicable attainment date.[1] In this case the EPA is required to make determinations concerning whether serious CO nonattainment areas attained the NAAQS by their December 31, 2000 attainment date. Pursuant to the CAA, the EPA is required to make attainment determinations for these areas by June 30, 2001, no later than 6 months following the attainment date for the areas. Therefore, this action is being taken to make a determination of attainment for a serious CO nonattainment area with a December 31, 2000 attainment date.

B. How Does EPA Make Attainment Determinations?

Section 179(c)(1) of the CAA provides that attainment determinations are to be based upon an area's ''air quality as of the attainment date, and section 186(b)(2) is consistent with this requirement.'' EPA will make the determination as to whether an area's air quality is meeting the CO NAAQS based upon air quality data gathered at CO monitoring sites in the nonattainment area which has been entered into the Aerometric Information Retrieval System (AIRS). This data is reviewed to determine the area's air quality status in accordance with EPA guidance at 40 CFR 50.8, and in accordance with EPA policy and guidance as stated in a memorandum from William G. Laxton, Director Technical Support Division, entitled ''Ozone and Carbon Monoxide Design Value Calculations,'' dated June 18, 1990.

The 8-hour CO design value is used to determine attainment of CO areas, and is computed by first finding the maximum and second maximum (non-overlapping) 8-hour values at a monitoring site for the most recent 2 years of air quality data. Then the maximum value of the second high values is used as the design value for the monitoring site. The CO NAAQS requires that not more than one 8-hour average per year can exceed 9.0 ppm (9 greater than or equal to 9.5 ppm to adjust for rounding). CO attainment is evaluated and determined by reviewing 8 quarters of data, or a total of 2 complete calendar years of data for an area. If an area has a design value that is greater than 9.0 ppm, this means that a monitoring site in the area, where the second highest (non-overlapping) 8-hour average was measured, was greater than 9.0 ppm in at least 1 of the 2 years being reviewed to determine attainment for the area. Then this indicates that there were at least two values which measured above the NAAQS for CO. Thus, the standard was not met in the area.

C. What Is the Attainment Date for the Anchorage CO Nonattainment Area?

As stated above, the Anchorage CO nonattainment area was designated nonattainment for CO by operation of law upon enactment of the CAA Amendments of 1990. Under 186(a) of the CAA, each CO area designated nonattainment was also classified by operation of law as either ''moderate'' or ''serious'' depending on the severity of the area's air quality problem. States containing areas that were classified as moderate nonattainment were required to attain the CO NAAQS as expeditiously as practicable but no later than December 31, 1995. Anchorage received a one year extension to December 31, 1996, from the mandated attainment date of December 31, 1995, for moderate nonattainment areas. On June 12, 1998, EPA made a finding that Anchorage did not attain the CO NAAQS by the December 31, 1996 attainment date for the moderate nonattainment area. This finding is based on EPA's review of monitored air quality data for compliance with the CO NAAQS. As a result of this finding the

[1] See sections 179(c) and 186(b)(2) of the CAA Amendments.

Anchorage CO nonattainment area was reclassified as a serious CO nonattainment area by operation of law (see 62 FR 63687, (December 2, 1997)). As a result of this reclassification, the State was to attain the CO NAAQS as expeditiously as practicable but no later than December 31, 2000, the CAA attainment date for serious areas.

II. EPA's Proposed Action

EPA is, by today's action, making the determination that the Anchorage serious CO nonattainment area did attain the CO NAAQS by the attainment date of December 31, 2000. As explained below, the Anchorage nonattainment area remains classified a serious CO nonattainment area, and today's action does not redesignate the Anchorage nonattainment area to attainment.

III. Basis for EPA's Action

Alaska has four CO monitoring sites in the Anchorage CO nonattainment area. The air quality data in AIRS for these monitors show that, for the 2-year period from 1999 through 2000, there were no violations of the annual CO standard. The highest 8-hour annual average measured during this 2-year period was at the Trinity Christian Church monitoring site in 1999 where the 8-hour CO NAAQS average measured 7.8 ppm. Based on this information, EPA has determined that the area attained the CO NAAQS standard as of the attainment date of December 31, 2000.

In summary, EPA proposes to find that the Anchorage CO nonattainment area attained the CO NAAQS as of the attainment date of December 31, 2000. If we finalize this proposal, consistent with CAA section 188, the area will remain a serious CO nonattainment area with the additional planning requirements that apply to serious CO nonattainment areas. This proposed finding of attainment should not be confused with a redesignation to attainment under CAA section 107(d). Alaska has not submitted a maintenance plan as required under section 175A(a) of the CAA or met the other CAA requirements for redesignation to attainment. The designation status in 40 CFR part 81 will remain serious nonattainment for the Anchorage CO nonattainment area until such time as EPA finds that Alaska has met the CAA requirements for redesignations to attainment.

IV. Request for Public Comments

We are soliciting public comments on EPA's proposal to find that the Anchorage CO nonattainment area has attained the CO NAAQS as of the December 31, 2000, attainment date. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking process by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this document.

V. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This proposed action merely makes a determination based on air quality data and does not impose any requirements. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this proposed rule does not impose any enforceable duty, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely makes a determination based on air quality data and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: May 16, 2001.

Charles Findley,

Acting Regional Administrator, Region 10.

[FR Doc. 01–13277 Filed 5–24–01; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1183; MM Docket No. 01–58; RM–10071]

Radio Broadcasting Services; Morenci, AZ

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal.

SUMMARY: This document dismisses a petition filed on behalf of Copper Valley Radio proposing the allotment of Channel 290A to Morenci, Arizona, as that community's first local aural transmission service, based upon the lack of an expression of interest in pursuing the proposal by any party. *See* 66 FR 13870, March 8, 2001. With this action, this proceeding is terminated.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 01–58, adopted May 2, 2001, and released May 11, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC 20036, (202) 857–3800. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th

Street, NW., Washington, D.C. 20036, (202) 857–3800.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–13244 Filed 5–24–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2001–9600; Notice 1]

Federal Motor Vehicle Safety Standards; FMVSS No. 121, Air Brake Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Denial of petition for rulemaking, Motor & Equipment Manufacturers Association—Heavy Duty Brake Manufacturers Council

SUMMARY: On January 16, 2001, the Heavy Duty Brake Manufacturers Council (HDBMC) of the Motor & Equipment Manufacturers Association petitioned NHTSA to delay the implementation date for transmittal of antilock braking system (ABS) malfunction signals from trailers to tractors and trucks that are equipped to tow trailers. These requirements are specified in S5.1.6.2(b) for trucks and tractors, and S5.2.3.2 for trailers, of FMVSS No. 121, Air Brake Systems. The petitioner cites difficulties of its member companies in obtaining suitable computer chips at a reasonable cost to perform the ABS malfunction signal communications. However, the agency believes that the member companies' failure to reach suitable business arrangements with their supplier and a holder of a patent on this technology has resulted in this situation. The agency notes that nearly five years of lead time was provided to meet these requirements. The current difficulties cited by the petitioner normal commercial problems, not a lack of available technology. This petition is denied.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Woods, Office of Crash Avoidance Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone (202) 366–6206; fax (202) 366–4329.

SUPPLEMENTARY INFORMATION: NHTSA has been petitioned by the Heavy Duty Brake Manufacturers Council (HDBMC) to delay implementation of the in-cab warning lamp requirements in FMVSS No. 121. These requirements became effective March 1, 2001. The HDBMC petition dated January 16, 2001, asked for a one-year extension to March 1, 2002. The requirements apply to air-braked vehicles that tow or are towed by other air-braked vehicles, such as tractors, trucks, trailers, and converter dollies. The in-cab warning lamp provides the driver with an indication on the truck instrument panel that there is a malfunction in the ABS of a towed vehicle, so that the driver can identify such malfunctions and have them corrected. The requirements for ABS malfunction signaling between towed and towing vehicles were originally adopted in a final rule issued on March 10, 1995 (60 FR 13216). These requirements underwent slight revisions and were finalized in their present form in a final rule issued on May 31, 1996 (61 FR 27288).

In 1997, the industry formed the PLC–4–TRUCKS consortium to develop a system to transmit the trailer ABS malfunction signals between towing and towed vehicles. The industry believed that the systems commercially-available at that time did not meet all of the industry's needs, which include the ability of the system to be incorporated into the ABS electronic control units installed on the subject vehicles; the availability of a system that is not proprietary and thus any manufacturer could produce the needed components; and the ability of the system to work within the existing wiring common among heavy-duty tractors and trailers.

The PLC–4–TRUCKS system that was developed by the consortium uses computer chips manufactured by Intellon Corporation that provide spread-spectrum data communications capability over a power line, or power line carrier (PLC). These chips, which are used in other commercial applications, were adapted to heavy-duty truck use and through the PLC–4–TRUCKS consortium, a communications protocol was developed. As HDBMC states in their petition, Alan Lesesky of VES Corporation was granted a patent in October, 2000, which covers the use of spread-spectrum data communications on tractor-trailer applications, and subsequently VES filed a lawsuit against Intellon alleging patent infringement issues. Prior to filing the lawsuit, VES offered licensing agreements to the manufacturers of heavy-duty ABS systems to enable them to use this technology. As stated in the petition, the HDBMC believes that the licensing fees proposed by VES are commercially unreasonable and inconsistent with past licensing arrangements for products covered by Society of Automotive Engineers (SAE) or NHTSA standards.

NHTSA notes that as early as 1998, the agency was prepared to initiate rulemaking to mandate one of the commercially-available systems for the purpose of communicating trailer ABS warning lamp signals, to ensure that the industry would comply with the March 1, 2001 compliance date. However, the agency was assured by the industry that the PLC–4–TRUCKS solution was indeed that way that the industry wanted to go and that such a mandate was unnecessary. The agency heeded the industry's recommendations and subsequently did not begin the rulemaking process for such a mandate.

NHTSA contacted VES and Intellon attorneys for an update on the lawsuit by VES against Intellon. The attorney for VES indicated that one of the HDBMC member companies, Eaton Corporation, had negotiated and signed a licensing agreement with VES to use the spread-spectrum technology for trailer ABS warning lamp purposes. The VES attorney indicated that he believed other ABS manufacturers would follow suit. The agency believes that if suitable licensing agreements are made between the ABS manufacturers and VES, then the lawsuit would be terminated so that manufacturing the PLC–4–TRUCKS system with the Intellon computer chips could resume.

The agency therefore denies the petition for a one-year extension of the March 1, 2001, compliance date for trailer ABS malfunction signals. The technology is available to transmit the trailer ABS malfunction signals. The agency believes that this issue is a business matter that the ABS suppliers need to work out with appropriate parties, including Intellon, VES, and the vehicle manufacturers to whom they sell their products. The agency notes that it was prepared to mandate one of the older, commercial systems on the market, but the agency was persuaded not to do so. Under these circumstances the fact that the vehicle manufacturers do not want to pay the amount proposed by VES is not an adequate basis to extend the effective date. Further, the agency notes that the cost of ABS in general has decreased significantly (i.e., a factor of two or three) compared to ABS costs prior to the tractor ABS mandate of March 1, 1997, and that the cost to incorporate the trailer ABS malfunction signaling would only amount to a small increase in the cost of current ABS equipment.

Issued on May 21, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–13184 Filed 5–24–01; 8:45 am]

BILLING CODE 4910–59–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 010–427105–1105–01; I.D. 011001F]

RIN 0648–AJ82

Magnuson-Stevens Act Provisions; Update of Regulations Governing Council Operations

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule, request for comments.

SUMMARY: NMFS proposes to update regulations governing the operation of Regional Fishery Management Councils (Councils) under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). This proposed rule would make amendments by codifying recent administrative and policy changes, and by making editorial changes for readability, clarity, and uniformity. The intent of this proposed rule is to update Council regulations to reflect current policies and procedures.

DATES: Comments must be received on or before June 25, 2001.

ADDRESSES: Comments should be sent to William T. Hogarth, Acting Assistant Administrator, NMFS, 1315 East–West Highway, Silver Spring, MD 20910. Comments on this document will not be accepted if submitted via email or the Internet.

FOR FURTHER INFORMATION CONTACT: Richard Surdi, F/SF5, NMFS, 301–713–2337. This **Federal Register** document is also accessible via the Internet at the Office of the Federal Register website at *http://www.access.gpo.gov/su—docs/aces/aces 140.tml.*

SUPPLEMENTARY INFORMATION:

Background

Currently, regulations pertaining to general provisions of the Magnuson-Stevens Act related to Council operations are contained in title 50 of the Code of Federal Regulations (CFR). NMFS is proposing to update part 600 (Regional Fishery Management Councils, subpart B, and Council Membership, subpart C), to codify important provisions of the recently withdrawn Council Operations and Administration Handbook (Handbook), which was a reference guide that compiled various requirements of the Magnuson-Stevens Act and other applicable law, as well as policy guidance. Some of the guidance contained in the Handbook consisted of regulations that were removed from title 50 of the CFR at the time the Handbook was developed. NMFS is proposing to reinstate some of those former regulations because they are not contained elsewhere and they are necessary for the Councils to function. Other proposed additions and revisions reflect necessary policy changes that were not contained in the Handbook, and were not previously in regulation.

Proposal

1. The topic of compensation for Council staff (not Council members) would be added at § 600.120, noting that Council pay rates must be consistent with the pay rates established for General Schedule Federal employees or the alternative personnel management system for the U.S. Department of Commerce (62 FR 67434; December 24, 1997). The Councils have the discretion to adjust pay rates and pay increases for cost of living (COLA) and other adjustments, but no pay adjustment may exceed the applicable percentage of salary for COLA and locality pay available to Federal employees in the same geographic area. In addition, the regulations would prohibit salary increases funded in lieu of life and medical/dental policies, a former regulation that was contained in the Handbook. Other additions at § 600.120 that reinstate former regulations include fair hiring practices and the hiring of an independent legal counsel.

2. The topic of payment for unused sick and annual leave would be added at § 600.120. It would provide that unused sick leave may be accumulated to a maximum as established by the Council. It also provides for the distribution of accumulated funds for unused sick leave to the employee upon his or her retirement, or their estate upon his or her death, as established in the Council's Statement of Organization, Practices, and Procedures (SOPP). Each Council may pay for unused annual leave upon separation, retirement, or death of an employee.

3. A requirement would be added under § 600.125 regarding agreements, including grants, contracts, or cooperative agreements. Councils may not independently enter into agreements in which they will receive funds, and all such agreements must be approved and entered into by NOAA on behalf of the Council. A policy that was contained in the Handbook regarding the receipt of gifts or contributions would also be added at § 600.125.

4. Policies in the Handbook regarding meeting notification, meeting closures, and voting procedures that were also former regulations would be added at § 600.135.

5. A policy that was contained in the Handbook regarding the disposition of records that was also a former regulation would be added at § 600.150.

6. A policy contained in the Handbook regarding responding to Freedom of Information Act requests that was also a former regulation would be added at § 600.155.

7. The constituent states of the eight Regional Fishery Management Councils are represented by ''principal state officials'' designated by their Governors. Each principal state official under section 302(b) of the Magnuson-Stevens Act is currently required to be employed, on a full-time basis, in a position related to the development of fisheries management policies for that state. The proposed rule would amend the language at § 600.205 so that a designee of that official would not have to be a full-time employee of the state, with the aforementioned responsibilities, but must be a resident of the state and knowledgeable and experienced in the fishery resources of the geographic area of concern to the Council. This would grant greater flexibility to the principal state official in selecting a designee, who may have the expertise and ability to serve, but might not be a full-time state employee.

8. Section 302(d) of the Magnuson-Stevens Act establishes GS-15, step 7 General Schedule as a Council member's daily pay rate. This proposed rule would remove § 600.245(a) which is inconsistent with the statutory provision.

Classification

This action has been determined to be not significant for purposes of E.O. 12866.

The Chief Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities in the fishing industry. This proposed rule does not affect any small entities. Rather, it establishes procedures or guidelines for

the administration of the Councils. The Councils are established under the Magnuson-Stevens Act and are not a small business, small organization, or a small government jurisdiction, as these terms are defined in the Regulatory Flexibility Act, 5 U.S.C 601 *et seq.*

NMFS has analyzed this proposed rule in accordance with the criteria of the National Environmental Policy Act (NEPA). This proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment because it only provides notice and comment on agency procedure or practice (i.e., procedures and guidelines for the administration of Councils). NMFS has determined that issuance of this policy qualifies for a categorical exclusion as defined by NOAA 216-6 Administrative Order, Environmental Review Procedures

This rule contains no collection-of-information requirements subject to the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 600

Fisheries, Fishing.

Dated: May 22, 2001.

William T. Hogarth,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 600 subparts B and C are proposed to be amended as follows:

PART 600—MAGNUSON-STEVENS ACT PROVISIONS

1. The authority citation for part 600 continues to read:

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801*et seq.*

2. Section 600.120 of subpart B is revised to read as follows:

§ 600.120 Employment practices.

(a) Council staff positions must be filled solely on the basis of merit, fitness for duty, competence, and qualifications. Employment actions must be free from discrimination based on race, religion, color, national origin, sex, age, disability, reprisal, sexual orientation, status as a parent, or on any additional bases protected by applicable Federal, state, or local law.

(b) The annual pay rates for Council staff positions shall be consistent with the pay rates established for General Schedule Federal employees as set forth in 5 U.S.C. 5332, and the Alternative Personnel Management System for the U.S. Department of Commerce (62 FR 67434). The Councils have the discretion to adjust pay rates and pay increases based on cost of living (COLA) differentials in their geographic locations. COLA adjustments in pay rates and pay increases may be provided for staff members whose post of duty is located in Alaska, Hawaii, Guam, the U.S. Virgin Islands, the Northern Mariana Islands, and Puerto Rico.

(1) No pay adjustment based on geographic location shall exceed the COLA and locality pay adjustments available to Federal employees in the same geographic area.

(2) [Reserved]

(c) Salary increases funded in lieu of life and medical/dental policies are not permitted.

(d) Unused sick leave may be accumulated without limit, or up to a maximum number of days and contribution per day, as specified by the Council in its SOPP. Distributions of accumulated funds for unused sick leave may be made to the employee upon his or her retirement, or his or her estate upon his or her death, as established by the Council in its SOPP.

(e) Each Council may pay for unused annual leave upon separation, retirement, or death of an employee.

(f) One or more accounts shall be maintained to pay for unused sick or annual leave as authorized under (d) and (e), and will be funded from the Council's annual operating allowances. Councils have the option to deposit funds into these account(s) at the end of the budget period if unobligated balances remain. Interest earned on these account(s) will be maintained in the account(s), along with the principal, for the purpose of payment of unused annual and sick leave only. These account(s), including interest, may be carried over from year to year. Budgeting for accrued leave will be identified in the ''Other'' object class categories section of the SF-424A.

(g) A Council must notify the NOAA Office of General Counsel before seeking outside legal advice, which may be for technical assistance not available from NOAA. If the Council is seeking legal services in connection with an employment practices question, the Council must first notify the Department of Commerce's Office of the Assistant General Counsel for Administration, Employment and Labor Law Division. A Council may not contract for the provision of legal services on a continuing basis.

3. Section 600.125 of subpart B is revised to read as follows:

§ 600.125 Budgeting, funding, and accounting.

(a) Each Council's grant activities are governed by OMB Circular A-110 (Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations), OMB Circular A-122 (Cost Principles for Non-Profit Organizations), 15 CFR Part 29b (Audit Requirements for Institutions of Higher Education and other Nonprofit Organizations), and the terms and conditions of the cooperative agreement. (See 5 CFR 1310.3 for availability of OMB Circulars.)

(b) Councils may not independently enter into agreements, including grants, contracts, or cooperative agreements, whereby they will receive funds for services rendered. All such agreements must be approved and entered into by NOAA on behalf of the Councils.

(c) Councils are not authorized to accept gifts or contributions directly. All such donations must be directed to the NMFS Regional Administrator in accordance with applicable Department of Commerce regulations.

4. Section 600.135 is added to subpart B to read as follows:

§ 600.135 Meeting procedures.

(a) Public notice of regular meetings of the Council, scientific statistical committee or advisory panels, including the agenda, must be published in the **Federal Register** on a timely basis, and appropriate news media notice must be given. The published agenda of any regular meeting may not be modified to include additional matters for Council action without public notice, or such notice must be given at least 14 days prior to the meeting date, unless such modification is to address an emergency under section 305(c) of the Magnuson-Stevens Act, in which case public notice shall be given immediately. Drafts of all regular public meeting notices must be transmitted to the NMFS Headquarters Office at least 23 calendar days before the first day of the regular meeting. Councils must ensure that all public meetings are accessible to persons with disabilities, and that the public can make timely requests for language interpreters or other auxiliary aids at public meetings.

(b) Drafts of emergency public notices must be transmitted to the NMFS Washington Office; recommended at least 5 working days prior to the first day of the emergency meeting. Although notices of, and agendas for, emergency meetings are not required to be published in the **Federal Register**, notices of emergency meetings must be promptly announced through the appropriate news media.

(c) After notifying local newspapers in the major fishing ports within its region, including in the notification the time

and place of the meeting, as well as the reason for closing any meeting or portion thereof:

(1) A Council, SSC, AP, or FIAC shall close any meeting, or portion thereof, that concerns information bearing on a national security classification.

(2) A Council, SSC, AP, or FIAC may close any meeting, or portion thereof, that concerns matters or information pertaining to national security, employment matters, or briefings on litigation in which the Council is interested.

(3) A Council, SSC, AP, or FIAC may close any meeting, or portion thereof, that concerns internal administrative matters other than employment. Examples of other internal administrative matters include candidates for appointment to AP, SSC, and other subsidiary bodies; and public decorum or medical conditions of members of a Council or its subsidiary bodies. In deciding whether to close a portion of a meeting to discuss internal administrative matters, a Council or subsidiary body should take into consideration the privacy interests of individuals whose conduct or qualifications may be discussed, but also the interest of the public in being informed of Council operations and actions.

(d) Without the notice required by paragraph (c) of this section, a Council, SSC, AP, or FIAC may briefly close a portion of a meeting to discuss employment or other internal administrative matters. The closed portion of a meeting closed without notice may not exceed two hours.

(e) Before closing a meeting or portion thereof, a Council or subsidiary body should consult with the NOAA General Counsel Office to ensure that the matters to be discussed fall within the exceptions to the requirement to hold public meetings described in section (c).

(f) Actions that affect the public, although based on discussions in closed meetings, must be taken in public. For example, appointments to an AP must be made in the public part of the meeting; however, a decision to take disciplinary action against a Council employee need not be announced to the public.

(g) A majority of the voting members of any Council constitutes a quorum for Council meetings, but one or more such members designated by the Council may hold hearings.

(h) Decisions of any Council are by majority vote of the voting members present and voting (except for a vote to propose removal of a Council member, see 50 CFR 600.230). Voting by proxy is permitted only pursuant to 50 CFR 600.205(b). An abstention does not affect the unanimity of a vote.

(i) Voting members of the Council who disagree with the majority on any issue to be submitted to the Secretary, including principal state officials raising federalism issues, may submit a written statement of their reasons for dissent. If any Council member elects to file such a statement, it should be submitted to the Secretary at the same time as the majority report.

5. Section 600.150 is added to subpart B to read as follows:

§ 600.150 Disposition of records.

(a) Council records must be handled in accordance with NOAA records management office procedures. All records and documents created or received by Council employees while in active duty status belong to the Federal Government. When employees leave the Council, they may not take the original or file copies of records with them.

(b) [Reserved]

6. Section 600.155 is added to subpart B to read as follows:

§ 600.155 Freedom of Information Act (FOIA) requests.

(a) FOIA requests received by a Council should be coordinated promptly with the appropriate NMFS Regional Office. The Region will forward the request to the NMFS FOIA Official to secure a FOIA number and log into the FOIA system. The Region will also obtain clearance from the NOAA General Counsel's Office concerning initial determination for denial of requested information.

(b) FOIA requests will be controlled and documented in the Region. The requests should be forwarded to the NMFS FOIA Officer who will prepare the Form CD-244, ''FOIA Request and Action Record,'' with the official FOIA number and due date. In the event the Region determines that the requested information is exempt from disclosure, in whole or in part, under the FOIA, the denial letter prepared for the Assistant Administrator's signature, along with the ''Foreseeable Harm'' Memo and list of documents to be withheld, must be cleared through the NMFS FOIA Officer. Upon completion, a copy of the signed CD-244 and cover letter transmitting the information, should be provided to the NMFS FOIA Officer and the NOAA FOIA Officer.

7. Section 600.205 of subpart C is revised to read as follows:

§ 600.205 Principal state officials and their designees.

(a) Only a full-time state employee of the state agency responsible for marine and/or anadromous fisheries shall be appointed by a constituent state Governor as the principal state official for purposes of section 302(b) of the Magnuson-Stevens Act.

(b) A principal state official may name his/her designee(s) to act on his/her behalf at Council meetings. Individuals designated to serve as designees of a principal state official on a Council, pursuant to section 302(b)(1)(A) of the Magnuson-Stevens Act, must be a resident of the state, and be knowledgeable and experienced, by reason of his or her occupational or other experience, scientific expertise, or training, in the fishery resources of the geographic area of concern to the Council.

(c) New or revised appointments by state Governors of principal state officials, and new or revised designations by principal state officials of their designees(s), must be delivered in writing to the appropriate NMFS Regional Administrator and the Council chair at least 48 hours before the individual may vote on any issue before the Council. A designee may not name another designee. Written appointment of the principal state official must indicate his or her employment status, how the official is employed by the state fisheries agency, and whether the official's full salary is paid by the state. Written designation(s) by the principal state official must indicate how the designee is knowledgeable and experienced in fishery resources of the geographic area of concern to the Council, the County in which the designee resides, and whether the designee's salary is paid by the state.

§ 600.245 [Amended]

8. In § 600.245 of subpart C, paragraph (a) is removed, and paragraphs (b), (c), and (d) are redesignated as paragraphs (a), (b), and (c), respectively.

[FR Doc. 01–13287 Filed 5–24–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 010511122–1122–01; I.D. 031901C]

RIN 0648–AN70

Fisheries of the Northeastern United States; Recreational Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries Fishing Year 2001

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes recreational measures for the 2001 summer flounder, scup, and black sea bass fisheries. The implementing regulations for these fisheries require NMFS to publish recreational measures for the upcoming fishing year and to provide an opportunity for public comment. The intent of these measures is to prevent overfishing of the summer flounder, scup, and black sea bass resources.

DATES: Public comments must be received on or before June 11, 2001.

ADDRESSES: Comments on the proposed recreational specifications should be sent to Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298.

Copies of supporting documents used by the Summer Flounder, Scup, and Black Sea Bass Monitoring Committees and of the Environmental Assessment, Regulatory Impact Review, Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South Street, Dover, DE 19901–6790. The EA/RIR/IRFA is accessible via the Internet at *http://www.nero.nmfs.gov/ro/doc/nero.html*.

FOR FURTHER INFORMATION CONTACT: Allison Ferreira, Fishery Management Specialist, (978) 281–9103, fax (978) 281–9135, e-mail *allison.ferreira@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The Fishery Management Plan for Summer Flounder, Scup, and Black Sea Bass Fisheries (FMP) and its implementing regulations (50 CFR part 648, subparts G, H, and I) describe the process for specifying annual recreational measures. The FMP has established Monitoring Committees (Committees) for each of the three fisheries, consisting of representatives from the Atlantic States Marine Fisheries Commission (Commission), the Mid-Atlantic Fishery Management Council (Council), the New England and South Atlantic Fishery Management Councils, and NMFS. The FMP and its implementing regulations require the Committees to review annually scientific and other relevant information, and to recommend measures necessary to achieve the recreational harvest limits established for the summer flounder, scup, and black sea bass fisheries. The FMP limits these measures to minimum fish sizes, possession limits, and closed seasons. The Council's Demersal Species Committee and the Commission's Summer Flounder, Scup, and Black Sea Bass Board (Board) then consider the Committees' recommendations and any public comment in making their recommendations to the Council and the Commission, respectively. The Council then reviews the recommendations of the Demersal Species Committee, makes its own decision, and forwards its recommendation to NMFS.

For several reasons the rulemaking process that would have established recreational measures for these fisheries for the year 2000 was not completed. NMFS published proposed measures for summer flounder and black sea bass on August 16, 2000 (65 FR 49959) with comments accepted through September 15, 2000. In the meantime, the Council had met in August 2000 to begin the process for the fishing year that began January 1, 2001. NMFS determined that publication of measures for 2000 so late in the year would provide no conservation benefit and could create confusion; therefore, NMFS did not publish a final rule.

Final specifications for the 2001 scup and black sea bass fisheries were published at 66 FR 12902, March 1, 2001, and for the summer flounder fishery at 66 FR 16151, March 23, 2001. These specifications included a coastwide recreational harvest limit of 7.16 million lb (3.25 million kg) for summer flounder, 1.77 million lb (0.803 million kg) for scup, and 3.148 million lb (1.43 million kg) for black sea bass. Those specifications did not establish recreational measures since final recreational catch data were not available when the Council made its recreational harvest limit recommendation to NMFS.

Summer Flounder

The final specifications established a Total Allowable Landings (TAL) for summer flounder of 17.91 million lb (8.125 million kg), consistent with the emergency action taken on August 2, 2000 (65 FR 47648), in response to the April 25, 2000, Court Order in *NRDC* v. *Daley*. The specifications divided the summer flounder TAL into a commercial quota of 10.75 million lb (4.877 million kg) and a recreational harvest limit of 7.16 million lb (3.248 million kg).

Although NMFS did not publish final Federal recreational measures for 2000, most of the coastal states from Maine through North Carolina, acting under the Commission's Interstate Fishery Management Plan (IFMP), implemented a 15.5–inch (39.37–cm) total length (TL) minimum fish size, an 8–fish possession limit, and an open season from May 10 through October 2. Despite these measures, 2000 Marine Recreational Statistics Survey (MRFSS) data project recreational summer flounder landings to be 15.63 million lb (7.09 million kg), or more than double the established recreational harvest limit of 7.41 million lb (3.36 million kg) for 2000. Assuming recreational fishing effort in 2001 will be similar to 2000, the recreational measures need to reduce summer flounder recreational landings in 2001 by approximately 54 percent to achieve this recreational harvest limit. Therefore, the recreational measures need to further constrain the recreational summer flounder harvest in 2001.

In a meeting held on April 3, 2001, with NMFS, environmental groups, and other stakeholders, the Commission adopted a summer flounder quota consistent with the emergency action. In addition, the Commission's Summer Flounder Board chose to calculate the reduction needed in 2001 based on an average of recreational landings for the past 3 years (1998–2000), rather than on estimated 2000 landings (15.63 million lb (7.09 million kg)). By basing the 2001 reductions on this 3–year average of 12.16 million lb (5.52 million kg), the Commission will enact measures to achieve a 41–percent, as opposed to a 48–percent, reduction in recreational landings.

The Council recommended the following measures to NMFS at its December 12–14, 2000, meeting to achieve its 7.16 million–lb (3.248 million–kg) harvest limit: A 15.5–inch (39.27–cm) minimum fish size, a 3–fish possession limit, and an open season from May 25 through September 4 (i.e., a closed season from January 1 through

May 24 and from September 5 through December 31). These measures should reduce recreational landings by approximately 53 percent, assuming they are complied with 85 percent of the time.

Scup

NMFS did not issue final recreational measures for scup in 2000. On January 12, 2000, the Council submitted its recommended annual recreational measures for scup to NMFS. The Council's submission included proposed scup measures of a 7–inch (17.78–cm) TL minimum fish size, a 50–fish possession limit, and no closed season for 2000. After careful review, NMFS rejected the Council's proposed scup measures on March 10, 2000, because the Council's submission indicated the proposed scup measures would result in landings in excess of the recreational harvest limit established for 2000. The Council did not submit revised measures for scup.

Although NMFS rejected the proposed scup measures submitted by the Council, many coastal states from Maine to North Carolina implemented these measures under the Commission's IFMP. MRFSS data project 2000 recreational scup landings to be 5.197 million lb (2.357 million kg), or more than four times greater than the recreational harvest limit established for 2000 (1.24 million lb (0.56 million kg)). Assuming recreational effort in 2001 is the same as 2000, the recreational measures need to reduce scup recreational landings in 2001 by approximately 66 percent to achieve the recreational harvest limit for 2001.

At its January 23–24, 2001, meeting, the Commission voted to calculate the reduction needed in 2001 based on an average of recreational scup landings for the past 3 years (1998–2000), rather than on estimated 2000 landings (5.197 million lb (2.357 million kg)). By basing the 2001 reductions on this 3–year average of 2.657 million lb (1.205 million kg), the Commission will enact measures to achieve about a 33–percent, as opposed to a 66–percent, reduction in recreational landings.

At its December 12–14, 2000, meeting, the Council recommended the following recreational measures for scup to achieve the recreational harvest limit: A 9-inch (22.86 cm) TL minimum fish size, a 50-fish possession limit, and an open season from August 15 through October 31 (i.e., a closed season from January 1 through August 14 and from November 1 through December 31). These measures should reduce recreational scup landings by approximately 60 percent, assuming they are complied with 85 percent of the time.

Black Sea Bass

The final specifications for 2001 for black sea bass established a recreational harvest limit of 3.15 million lb (1.43 million kg), the same as for 2000. MRFSS data project 2000 black sea bass landings to be 4.291 million lb (1.95 million kg), or 36 percent greater than the harvest limit established for 2000. Assuming recreational effort in 2001 is similar to 2000, the recreational measures need to reduce black sea bass recreational landings by approximately 27 percent to achieve the harvest limit established for 2001.

At its December 12–14, 2000, meeting, the Council recommended the following measures to NMFS to achieve the recreational harvest limit: An 11-inch (27.94-cm) TL minimum fish size, a 25-fish possession limit, and an open season from January 1 through February 28 and from May 10 through December 31 (i.e., a closed season from March 1 through May 9). At this meeting, the Commission's Black Sea Bass Board recommended the same measures to the Commission. These measures should reduce black sea bass landings by approximately 26 percent in 2001, assuming they are complied with 85 percent of the time.

Classification

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Council and NMFS prepared an IRFA that describes the economic impact this proposed rule, if adopted, would have on small entities. A copy of the complete IRFA can be obtained from the Northeast Regional Office of NMFS (see **ADDRESSES**) or via the Internet at *http://www.nero.nmfs.gov/ro/doc/nero.html*. A summary of the analysis follows:

This preamble includes a description of the action, why it is being considered, and the legal basis for this action. This proposed rule does not duplicate, overlap, or conflict with other Federal rules.

The Council's IRFA analysis examined the economic impacts of three alternative sets of recreational management measures for the summer flounder, scup, and black sea bass fisheries: A preferred alternative and two non-preferred alternatives. The preferred alternative consists of the measures recommended by the Council for the summer flounder, scup and black sea bass fisheries and is included in this proposed rule. Non-preferred Alternative 1 consists of measures recommended by the Monitoring Committees for summer flounder and scup and of a restrictive set of alternative black sea bass measures. Non-preferred Alternative 2 would maintain 2000 measures for all three fisheries (status-quo).

The category of small entities likely to be affected by this action are party/charter vessels harvesting summer flounder, scup, and/or black sea bass. This action could affect any party/charter vessel holding a Federal permit for summer flounder, scup, and/or black sea bass, regardless of whether they are fishing in Federal or in state waters. The Council estimates that the proposed measures could affect 694 vessels with a Federal charter/party permit for summer flounder, scup and/or black sea bass. Only 364 of these vessels reported actively participating in the recreational summer flounder, scup, and/or black sea bass fisheries in 1999.

The Council's analysis assessed various management measures from the standpoint of determining the changes in revenue on party/charter vessels. Since data on costs and revenues were not available, the analysis estimated revenues for party/charter vessels participating in the summer flounder, scup and/or black sea bass fisheries by employing various assumptions. The Council analyzed the effects of measures by employing quantitative approaches to the extent possible. Where quantitative data were not available, the Council conducted qualitative analysis.

Projected MRFSS data indicate that an estimated 1.626 million trips were taken by anglers aboard party/charter vessels in 2000 in the Northeast Region. The summer flounder recreational measures proposed under the preferred alternative for the 2001 fishing year would have affected about 2.64 percent of those trips in 2000. Specifically, 42,916 angler trips taken aboard party/charter vessels in 2000 landed at least one summer flounder that was smaller than 15.5 inches (39.7 cm) TL, or landed more than 3 summer flounder, or landed at least one summer flounder during the proposed closed season (January 1 to May 24 and September 5 to December 31). Assuming that angler effort and catch rates in 2001 are similar to 2000, the analysis projects the proposed reduction in the summer flounder possession limit and extension of the closed season to affect approximately 2.64 percent of the party/charter fishing effort in 2001. The analysis estimates vessel revenues associated with these trips by multiplying the number of potentially affected trips in 2001 (42,916) by the average fee paid by anglers in the Northeast region ($39.09).

The average party/charter fee for 2001 is based on the average fee paid by anglers in 1998 calculated from information collected through an economic supplement to the NMFS MRFSS. As a result, total potential revenue loss could be up to $1,677,586 (42,916 x $39.09). Assuming the same number of party/charter vessels that participated in 1999 (318 vessels) would also participate in the summer flounder fishery in 2001, the average potential revenue loss per vessel for the preferred alternative could be up to $5,275 ($1,677,586/318).

Under the first non-preferred summer flounder alternative (16-inch minimum fish size, 3-fish possession limit, and an open season), the analysis estimated that 2.72 percent of trips aboard party/charter vessels would be affected, assuming angler effort and catch rates in 2001 are similar to 2000. Specifically, the analysis projects 44,216 angler trips taken aboard party/charter vessels in 2001 to land at least one summer flounder smaller than 16 inches (40.64 cm) TL, land more than 3 summer flounder, or land at least one summer flounder during the proposed closed season (January 1 to May 17 and September 15 to December 31). Total party/charter revenues associated with these trips are estimated to be $1,728,403 (44,216 x $39.09). Assuming the same number of party/charter vessels will participate in the 2001 summer flounder fishery that participated in 1999 (318 vessels), the average potential revenue loss per vessel for the first non-preferred alternative could be up to $5,435 ($1,728,403 divided by 318).

Losses of this magnitude (as estimated for the preferred and first non-preferred alternatives) are unlikely to occur, given that anglers will continue to have the ability to engage in catch and release fishing for summer flounder and that numerous alternative target species are available to anglers. Unfortunately, very little information is available to empirically estimate how sensitive the affected party/charter boat anglers might be to the proposed regulations. In addition, only 7.3 percent of recreational summer flounder landings come from the Exclusive Economic Zone (EEZ). Federal measures apply to federally permitted vessels wherever they fish. However, the states, through the Commission, will likely implement different measures for summer flounder, since the Commission has adopted a ''target'' that is a smaller percent reduction in landings in 2001 (compared to 2000) than that adopted by the Council for 2001. Given these factors, the demand for recreational party/charter trips targeting summer flounder should not be significantly affected by the preferred and first non-preferred alternatives. Thus, the monetary impacts per vessel should be considerably lower than estimated above.

The second non-preferred summer flounder alternative maintains the status quo at a 15.5-inch (39.37 cm) TL minimum fish size, an 8-fish possession limit, and an open season from May 10 to October 2. Although NMFS did not publish a final rule implementing these measures, most of the coastal states from Maine to North Carolina implemented these measures in 2000. Assuming that angler effort in 2001 is similar to that in 2000 and that catch rates remain constant, this alternative would not affect any additional recreational fishing trips for summer flounder in 2001.

For scup, the analysis projected that the preferred 2001 recreational measures would affect approximately 1.44 percent of the total angler trips taken aboard party/charter vessels in 2001, assuming catch rates and angler effort in 2001 are similar to those in 2000. Specifically, the analysis projected 23,409 angler trips taken aboard party/charter vessels in 2001 to land at least one scup that is smaller than 9 inches (22.86 cm) TL, land more than 50 scup, or land at least one scup during the proposed closed season (January 1 to August 14 and November 1 to December 31). The analysis estimated vessel revenues associated with these trips by multiplying the average fee paid by anglers in Northeast region ($39.09) by the affected trips (23,409). Thus, party/charter vessels could lose total revenues up to $915,058 (23,409 x $39.09) as a result of the preferred management measures. Analysis of Northeast logbook data for 1999 indicated that 126 party/charter vessels participated in the scup fishery. Assuming that the same number of vessels participate in the scup fishery in 2001, the average potential revenue loss per vessel for the preferred alternative could be up to $7,262 ($915,058 divided by 126).

The analysis projects that management measures proposed under the first non-preferred alternative for scup would affect approximately 1.4 percent of the total angler trips taken aboard party/charter boats in 2001, assuming that catch rates and angler effort in 2001 are similar to those in 2000. Specifically, the analysis projects that 22,898 angler trips taken aboard party charter vessels in 2001 would land at least one scup that is smaller than 9 inches (22.86 cm) TL, land more than 15 scup, or land at least one scup during the proposed closed season (January 1 to June 30 and September 30 to December 31). Total party/charter revenues associated with these trips are estimated to be $895,083 (22,898 x $39.09). Assuming the same number of party/charter vessels will participate in the 2001 scup fishery that participated in 1999 (126 vessels), the average potential revenue loss per vessel for the first non-preferred alternative could be up to $7,104 ($895,083 divided by 126).

Losses of this magnitude (as estimated for the preferred and first non-preferred alternatives) are unlikely to occur for the same reasons noted earlier for summer flounder (catch and release, alternative species). Furthermore, the states, through the Commission, will be implementing alternative measures for scup. The Commission voted to enact measures to reduce scup landings by only 33 percent based on average landings over the past 3 years at its January 23-24, 2001, meeting. While a larger portion of the recreational scup fishery occurs in the EEZ than in the case of summer flounder, recreational fishermen catch only 13.4 percent of recreational scup landings from the EEZ. Given these factors, the demand for recreational party/charter trips targeting scup should not be significantly affected by the preferred and first non-preferred alternatives. Thus, the monetary impacts per vessel should be considerably lower than estimated above.

The second non-preferred alternative for scup maintains the status quo at a 50-fish possession limit, a 7-inch (17.78 cm) TL minimum fish size, and no closed season. Although NMFS did not publish a final rule implementing these measures, most of the coastal states from Maine to North Carolina implemented these measures in 2000. Assuming that angler effort in 2001 is similar to that in 2000 and that catch rates remain constant, the second non-preferred alternative would not affect any additional recreational fishing trips for scup in 2001.

For black sea bass, the analysis estimated that 0.09 percent of the trips aboard party/charter vessels in 2000 (1.626 million trips) would have been affected by the preferred 2001 recreational measures, assuming catch rates and angler effort in 2001 are similar to those in 2000. In other words, the analysis projects that 1,463 angler trips aboard party/charter vessels in 2001 would land at least one black sea bass that is smaller than 11 inches (27.94 cm) TL, land more than 25 black sea bass, or land at least one black sea bass during the proposed closed season (March 1 through May 9). The analysis determined total party/charter vessel

revenues associated with these trips by multiplying the number of potentially affected trips in 2001 (1,463) by the average fee paid by anglers ($39.09). Thus, adoption of the preferred management measures could reduce total party/charter vessel revenues by up to $57,189 (1,463 x $39.09). Analysis of Northeast logbook data indicated that 261 party/charter vessels participated in the recreational black sea bass fishery in 1999. Assuming the same number of vessels will participate in this fishery in 2001, the average potential revenue loss per vessel for the preferred alternative could be up to $219 ($57,189 divided by 261).

Under the first non-preferred black sea bass alternative, the analysis estimated that 0.83 percent of the trips aboard party/charter vessels in 2000 would have been affected by these measures in 2001, assuming catch rates and angler effort in 2001 are similar to those in 2000. In other words, the analysis projects that 13,492 angler trips taken aboard party/charter vessels in 2001 would land at least one black sea bass that is smaller than 10 inches (25.4 cm) TL, land more than 15 black sea bass, or land at least one black sea bass during the proposed closed season (January 1 through May 31 and November 25 through December 31). The analysis determined total party/charter vessel revenues associated with these trips to be $527,402 (13,492 x 261). Assuming the same number of vessels will participate in the black sea bass fishery in 2001 as in 2000 (261 vessels), the average potential revenue loss per vessel for the first non-preferred alternative could be up to $2,021 ($527,402 divided by 261).

Losses of this magnitude (as estimated for the preferred and first non-preferred alternatives) are unlikely to occur for the same reasons noted earlier for summer flounder (catch and release, alternative species).

The second non-preferred alternative for black sea bass maintains the status quo at a 10-inch (25.4 cm) TL minimum fish size with no size or possession limits. Although NMFS did not publish a final rule implementing these measures, most coastal states from Maine to North Carolina implemented these measures in 2000. Assuming angler effort in 2001 is similar to that in 2000 and catch rates remain constant, the second non-preferred alternative would not affect any additional recreational fishing trips for black sea bass in 2001.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements

Dated: May 19, 2001.

William T. Hogarth,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.14, paragraphs (a)(80) and (u)(2) are revised to read as follows:

§ 648.14 Prohibitions.

(a) * * *

(80) Possess scup in or harvested from the EEZ north of 35°15.3′ N. lat. in an area closed, or before or after a season established pursuant to § 648.122, or in excess of the possession limit established pursuant to § 648.125.

* * * * *

(u) * * *

(2) Possess black sea bass in other than a box specified in § 648.145 (d) if fishing with nets having mesh that does not meet the minimum mesh-size requirement specified in § 648.144 (a).

* * * * *

3. Section 648.102 is revised to read as follows:

§ 648.102 Time restrictions.

Vessels that are not eligible for a moratorium permit under § 648.4 (a)(3) and fishermen subject to the possession limit may fish for summer flounder only from May 25 through September 4. This time period may be adjusted pursuant to the procedures in § 648.100.

4. In § 648.103, paragraph (b) is revised to read as follows:

§ 648.103 Minimum fish sizes.

* * * * *

(b) The minimum size for summer flounder is 15.5 inches (39.37 cm) TL for all vessels that do not qualify for a moratorium permit, and party boats holding a moratorium permit if fishing with passengers for hire or carrying more than five crew members, or charter boats holding a moratorium permit if fishing with more than three crew members.

* * * * *

5. In § 648.105, paragraph (a) is revised to read as follows:

§ 648.105 Possession restrictions.

(a) No person shall possess more than three summer flounder in, or harvested from the EEZ unless that person is the owner or operator of a fishing vessel issued a summer flounder moratorium permit, or is issued a summer flounder dealer permit. Persons aboard a commercial vessel that is not eligible for a summer flounder moratorium permit are subject to this possession limit. The owner, operator, and crew of a charter or party boat issued a summer flounder moratorium permit are subject to the possession limit when carrying passengers for hire or when carrying more than five crew members for a party boat, or more than three crew members for a charter boat. This possession limit may be adjusted pursuant to the procedures in § 648.100.

* * * * *

6. In § 648.122, revise the section heading and add paragraph (g) to read as follows:

§ 648.122 Time and area restrictions.

* * * * *

(g) *Time restrictions.* Vessels that are not eligible for a moratorium permit under § 648.4 (a)(6) and fishermen subject to the possession limit may fish for scup from August 15 through October 31. This time period may be adjusted pursuant to the procedures in § 648.120.

7. In § 648.124, paragraph (b) is revised to read as follows:

§ 648.124 Minimum fish sizes.

* * * * *

(b) The minimum size for scup is 9 inches (22.9 cm) TL for all vessels that do not have a moratorium permit, or for party and charter vessels that are issued a moratorium permit but are fishing with passengers for hire, or carrying more than three crew members if a charter boat, or more than five crew members if a party boat.

* * * * *

8. In § 648.125, paragraph (a) is revised to read as follows:

§ 648.125 Possession limit.

(a) No person shall possess more than 50 scup in, or harvested from the EEZ unless that person is the owner or operator of a fishing vessel issued a scup moratorium permit, or is issued a scup dealer permit. Persons aboard a commercial vessel that is not eligible for a scup moratorium permit are subject to this possession limit. The owner, operator, and crew of a charter or party boat issued a scup moratorium permit are subject to the possession limit when carrying passengers for hire or when carrying more than five crew members for a party boat, or more than three crew members for a charter boat. This

possession limit may be adjusted pursuant to the procedures in § 648.120.

* * * * *

9. Section 648.142 is revised to read as follows:

§ 648.142 Time restrictions.

Vessels that are not eligible for a moratorium permit under § 648.4 (a)(7) and fishermen subject to the possession limit may not fish for black sea bass from March 1 through May 9. This time period may be adjusted pursuant to the procedures in § 648.140.

10. In § 648.143, the first sentence of paragraph (b) is revised to read as follows:

§ 648.143 Minimum sizes.

* * * * *

(b) The minimum size for black sea bass is 11 inches (27.94 cm) TL for all vessels that do not qualify for a moratorium permit, and party boats holding a moratorium permit if fishing with passengers for hire or carrying more than five crew members, or charter boats holding a moratorium permit if fishing with more than three crew members. * * *

* * * * *

11. In § 648.145, the introductory paragraph is removed, existing paragraphs (a), (b) and (c) are redesignated as paragraphs (b),(c), and (d), and a new paragraph (a) is added to read as follows:

§ 648.145 Possession limit.

(a) No person shall possess more than 25 black sea bass in, or harvested from the EEZ unless that person is the owner or operator of a fishing vessel issued a black sea bass moratorium permit, or is issued a black sea bass dealer permit. Persons aboard a commercial vessel that is not eligible for a black sea bass moratorium permit are subject to this possession limit. The owner, operator, and crew of a charter or party boat issued a black sea bass moratorium permit are subject to the possession limit when carrying passengers for hire or when carrying more than five crew members for a party boat, or more than three crew members for a charter boat. This possession limit may be adjusted pursuant to the procedures in § 648.140.

* * * * *

[FR Doc. 01–13288 Filed 5–24–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010510121–1121–01; I.D. 012601B]

RIN 0648–AN23

Fisheries of the Exclusive Economic Zone Off Alaska; Revisions to Definition of Length Overall of a Vessel

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to clarify the definition of length overall (LOA) of a vessel. This would provide unambiguous guidance to vessel owners in determining a vessel's LOA for purposes of Federal fisheries management programs and to facilitate NMFS' and the U.S. Coast Guard's (USCG) enforcement of LOA requirements in the exclusive economic zone (EEZ) off Alaska. The action is intended to further the goals and objectives of the Fishery Management Plan (FMP) for Groundfish of the Gulf of Alaska and the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area.

DATES: Comments must be received by June 25, 2001.

ADDRESSES: Written comments should be sent to Sue Salveson, Assistant Administrator, Sustainable Fisheries Division, NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel, or delivered to the Federal Building, Fourth Floor, 709 West 9th Street, Juneau, AK, and marked Attn: Lori Gravel. Comments also may be sent via facsimile (fax) to 907–586–7465. Comments submitted by e-mail or the internet will not be accepted. Copies of the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) are available from from the same address or by calling the Alaska Region, NMFS, at 907–586–7228.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden or Jim Hale, 907–586–7228.

SUPPLEMENTARY INFORMATION: The domestic groundfish fisheries in the EEZ off Alaska are managed by NMFS under the FMPs. The FMPs were prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing the Alaska groundfish fisheries appear at 50 CFR parts 600 and 679. This proposed action would clarify the definition of vessel LOA, remove the definitions of stem and stern, and add a definition for bulwarks.

Presently, the definition of LOA requires measurement from the ''foremost part of the stem'' to the ''aftermost part of the stern.'' As illustrated by Figure 6 of 50 CFR part 679, this definition is intended to be an end-to-end measurement of the vessel and implicitly include the bulwarks of a vessel. For purposes of commercial fishing in the EEZ off Alaska, vessel LOA was first defined by the final rule implementing the observer program (55 FR 4839, February 12, 1990). Figure 6 was added to 50 CFR part 679 by a subsequent interpretive rule and technical amendment (57 FR 43621, September 22, 1992) that intended to clarify that definition. Although NMFS does not explicitly mention the term ''bulwarks'' in that interpretive rule/technical amendment, the preamble to the rule provides a technical description and interpretation of the term ''stem'' as ''the foremost position of the vessel, a section of timber or cast, forged, or rolled metal to which the sides of a vessel are united at the fore end'' (57 FR 43622). The illustration amended to the regulations as Figure 6 clearly depicts the inclusion of bulwarks in LOA measurement. NMFS intended the interpretative language and the illustration of Figure 6 to clarify the definition of LOA to include bulwarks. Moreover, NMFS enforcement policy has always included in any LOA measurement bulwarks that constitute the foremost or aftermost part of a vessel.

NMFS recognizes now that the definition of LOA still requires clarification. Despite the visual representation of bulwarks as part of the LOA in Figure 6, the language of the former interpretative rule is overly technical and the terms ''stem'' and ''stern'' remain open to misinterpretation. This action would remove ''stem'' and ''stern'' from the definition of LOA, add the term ''bulwarks,'' and thus clarify the original intent of the regulation that LOA measurement be an end-to-end measurement of a vessel.

Maritime regulations of other Federal agencies such as the USCG often use similar terminology to define LOA. However, the terms ''foremost part of the stem'' and ''aftermost part of the stern'' may or may not implicitly include bulwarks in the definition of overall vessel LOA. Federal regulators

define LOA differently for different purposes. For instance, USCG regulations at 46 CFR 69.203 use LOA to categorize vessels by buoyant hull volume, which cannot include structures such as bulwarks that are open to the weather and thus constitute no part of a vessel's buoyant hull envelope. These two different uses of the terms ''foremost part of the stem'' and ''aftermost part of the stern'' create the potential for confusion and inconsistent application of the LOA measurement by the regulated public.

For purposes of managing fisheries, vessel LOA provides NMFS with one criterion by which to categorize and manage the diverse capacities and capabilities of fishing vessels operating in Federal waters off Alaska. Distinguishing vessels by LOA categories allows NMFS to assign harvesting privileges in ways that ensure that fishing fleets remain relatively diversified between larger and smaller vessels and prevent over-consolidation of fishing privileges among any one sector of the fisheries, as well as to manage the growth of harvest capacity in a fishery and protect the historical character of a fishery and its dependent communities.

LOA categories also allow NMFS to assess the relative ability of fishermen to afford the cost of certain regulatory requirements, such as those requiring observer coverage.

Moreover, NMFS enforcement officers and USCG personnel charged with monitoring the fisheries for compliance with regulations require a practical definition of LOA that will facilitate the measurement of LOA. Despite the difficulty of measuring LOA during fishing operations, enforcement officers do take such measurements at dockside or at sea to ensure a vessel's compliance with regulatory requirements, such as observer coverage requirements. Bulwarks are a clearly visible part of a vessel's size; as such, including them in LOA measurement would make a vessel's length easier to ascertain from dockside or while the vessel is at sea.

For these reasons, NMFS proposes to revise the definition of LOA to explicitly include bulwarks, remove the definitions of ''stem'' and ''stern,'' and add a definition of ''bulwark'' to the definitions in 50 CFR 679.2. This action would not require a vessel owner to change the recorded LOAs of a vessel already registered with NMFS, provided the vessel's LOA accurately reflects the vessel's end-to-end measurement as shown in Figure 6 of 50 CFR part 679. This figure accurately depicts the end-points of LOA measurement. This action would prevent future misinterpretation of the regulatory definition of LOA.

Classification

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared an IRFA that analyzes the potential impact of this proposed action on small entities for purposes of the Regulatory Flexibility Act. While this action is intended simply to clarify the existing definition of LOA and thus prevent any misunderstanding or equivocation by vessel owners in determining a vessel's LOA. Some of the 1,613 vessels currently operating in the EEZ off Alaska under Federal Fisheries Permits may find their registered LOAs to be inconsistent with the regulatory definition of LOA. Vessels failing to have correct LOA measurements may incur costs associated with remeasuring their LOA. Unfortunately, at this time, NMFS has insufficient data to assess the actual number of such vessels affected in this manner, but it believes most LOAs are accurate.

However, vessels that are near observer coverage thresholds, (125 ft or 60 ft, as applicable) may incur considerable cost if it is determined that their LOA is incorrect and that they should actually be subject to a higher level of observer coverage. Approximately 38 vessels with recorded LOA measurements of 124, 123,and 122 ft may be subject to more stringent observer requirements if their LOAs are actually 125 ft or greater. Approximately 156 vessels with LOA measurements of 57, 58, and 59 ft may be subject to more stringent observer requirements if their LOAs are actually 60 ft or greater. Such vessels could incur costs of $300/day for an observer.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: May 21, 2001.

William T. Hogarth,

Deputy Asst. Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*; title II of Division C, Pub. L. 105-277; Sec. 3027, Pub. L. 106-31, 113 Stat. 57; 16 U.S.C. 1540 (f).

2. In § 679.2, the definition for ''bulwark'' is added in alphabetical order, the definition for ''length overall of a vessel'' is revised; and the definitions for ''stem'' and ''stern'' are removed as follows:

* * * * *

§ 679.2 Definitions.

* * * * *

Bulwark means a section of a vessel's side, continued above the main deck as a protection against heavy weather.

* * * * *

Length overall (LOA) of a vessel means the centerline longitudinal distance, rounded to the nearest foot, measured between:

(1) The outside foremost part of the vessel visible above the waterline, including bulwarks, but excluding bowsprits and similar fittings or attachments, and

(2) The outside aftermost part of the vessel visible above the waterline, including bulwarks, but excluding rudders, outboard motor brackets, and similar fittings or attachments (see Figure 6 to this part; see also maximum LOA, original qualifying LOA, and reconstruction).

* * * * *

[FR Doc. 01–13289 Filed 5–24–01; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 66, No. 102
Friday, May 25, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Game Range (Vegetation Management Project), Lolo National Forest, Sanders County, MT

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare environmental impact statement.

SUMMARY: The USDA, Forest Service, will prepare an environmental impact statement (EIS) to disclose the environmental effects of vegetation treatment through prescribed burning, timber harvest, reforestation, precommercial thinning, and noxious weed spraying in the Maier Gulch, Weber Gulch, Dry Gulch and Ashley Creek drainages (herein referred to as the Game Range project). The 9400-acre project area is located northeast of Thompson Falls from the mouth of Thompson River to Squaw Creek. About half of the area proposed for vegetation treatment is within the Cube Iron-Silcox Inventoried Roadless Area. The southwest analysis area boundary is adjacent to private lands that interface the Thompson Falls community.

Game Range is a joint planning, analysis and implementation project for ecosystem management of Lolo National Forest land and State lands administered by Montana Department of Fish Wildlife and Parks.

The proposed actions of prescribed burning, timber harvest, reforestation, precommercial thinning, and noxious weed treatment are being considered together because they represent either connected or cumulative actions as defined by the Council on Environmental Quality (40 CFR 1508.25). This EIS will tier to the Lolo National Forest Plan Final EIS (April, 1986).

DATES: Written comments and suggestions should be received on or before June 25, 2001.

ADDRESSES: Submit written comments and suggestions on the proposed management activities or a request to be placed on the project mailing list to Lisa Krueger, District Ranger, Plains/Thompson Falls Ranger District, Lolo National Forest, P.O. Box 429, Plains, and Montana, 59859.

FOR FURTHER INFORMATION CONTACT: Frank Yurczyk, EIS Team Leader, Plains/Thompson Falls Ranger District, Lolo National Forest, Phone (406) 826–4313.

SUPPLEMENTARY INFORMATION: The Game Range project area is within T21N, R28W; T21N, R29W; T22N, R29W; PMM.

Purpose and Need of Proposed Activities

The purpose of the proposed activities is to improve ecosystem health through (1) reducing the risk of severe wildlife by reducing fuel loading; (2) improving big game winter range by prescribed burning to stimulate forage production; (3) improving old growth by restoring historically more open stand conditions; and (4) reducing noxious weed presence by direct control and enhancement of native vegetation. Prescribed burning, timber harvest, precommercial thinning, planting and herbicide application would be used to achieve these conditions. Timber harvest is proposed on approximately 1740 acres of forested land that has been designated as suitable for timber management by the Lolo National Forest Plan.

The Lolo National Forest Plan provides the overall guidance for management activities in the project area through its goals, objectives, standards and guidelines, and Management Area direction. The need for these proposed actions is to alter current trends in the forest condition and to regulate, over time, changes in vegetative cover which could adversely affect forest health, fuel build up, watershed stability, wildlife habitat, or timber commodity potential while continuing to provide recreation uses. Timber harvest will help support the economic structure of local communities while contributing to the regional timber supply.

The Forest Service will consider a range of alternatives. One of these will be the ''No Action'' alternative, in which none of the proposed activities would be implemented. Additional alternatives will examine varying levels and locations for proposed activities in response to issues and other resource values.

The EIS will analyze the direct, indirect and cumulative environmental effects of the alternatives. Past, present and foreseeable activities on private, state, and National Forest lands will be considered to disclose the site specific effects.

Public Participation

Public participation is an important part of the analysis. The public may visit Forest Service officials at any time during the analysis and prior to the decision. Public scoping has been ongoing under the Game Range project. The Forest Service will be seeking additional information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations that may be interested in or affected by the proposed action. An ''open house'' and a public field meeting have been held; no additional public meetings are scheduled at this time. Additional comments and those previously received from the public on the Game Range project will be used in preparing the Draft EIS. Comments will again be solicited during the Draft EIS comment period.

Issues

A number of issues have already been identified for environmental effects analysis. The following principles issues have been identified so far, to guide alternative development and provide focus for the EIS:

1. Fire has been excluded from the area for the past 80 years. With fire exclusion, total biomass has increased with dense Douglas-fir and few ponderosa pine in the understory. With this change, stands are more susceptible to high intensity wildfires, defoliating insects and root diseases, with wildfires more difficult to control. How would project activities affect these conditions?

2. Big game winter range condition is in a downward trend (low quality forage and increased conifer cover) due to lack of periodic fire. How would prescribed burning and timber harvest affect big game forage conditions?

3. Game Range project lies within the Cabinet/Yaak Grizzley Bear recovery Zone. Would the project affect grizzly bear recovery or other threatened, endangered or sensitive species?

4. The project area forms the backdrop for Thompson Falls and the Clark Fork valley. The scenic character of the landscape is distinctive due to its unique combination of vegetation patterns, rock formations and proximity to the Clark Fork River. How would prescribed burning and timber harvest affect the scenic quality?

5. Most of the project area is within two to three miles of Thompson Falls. How would prescribed burning affect air quality in town and the Clark Fork Valley?

6. Noxious weeds are established on much of the lower part of the analysis area. Would prescribed burning and timber harvest affect conditions, spread of existing weeds or establishment of new weeds in the area? What effect does noxious weed stocking have on big game forage and growing conditions for native plants? How can noxious weed stocking be reduced and native vegetation increased?

7. Approximately 5680 acres of the Game Range analysis area is within the Cube Iron—Silcox Roadless Area. Timber harvest and prescribed burning is proposed with no road construction. Concern for management of the area was expressed both within the agency and during public scoping. What effect would the project have on the roadless resource?

8. Concern has been expressed that complex silvicultural prescriptions that are designed to achieve multi-resource objectives and to be compatible with ecosystem processes, would not be economically feasible. Using prescribed fire in some areas may result in a loss of economically valuable timber. Because there are few roads in the area, 86 percent of the proposed harvest area would need to be helicopter yarded. Is this cost effective? What is the net public cost and benefit of the proposed project including effects on recreation?

Other issues commonly associated with timber harvesting and prescribed burning include effects on cultural resources, soil compaction and nutrients, and other resources. This list will be verified, expanded, or modified based on additional public scoping for this proposal.

Comment Period and Draft EIS Schedule

The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review in July 2001. At that time, the EPA will publish a Notice of Availability of the Draft EIS in the **Federal Register**. The comment period on the Draft EIS will be 45 days from the date the EPA's notice of availability appears in the **Federal Register**. It is very important that those interested in management of the Game Range project participate at that time. The Final EIS is scheduled for completion by October 2001.

The Forest Service believes it is important, at this early stage, to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so its is meaningful and alerts the agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important those interested in this proposed action participate by the close of the 45-day comment period so substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

I am the responsible official for this environmental impact statement. My address is Lolo National Forest, Building 24—Fort Missoula, Missoula, MT 59804.

Dated: May 7, 2001.

Deborah L.R. Austin,

Forest Supervisor.

[FR Doc. 01–13205 Filed 5–24–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Notice of Request for Extension of a Currently Approved Collection of Information

AGENCY: Grain Inspection, Packers and Stockyards Administration.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 35), this notice announces the Grain Inspection, Packers and Stockyards Administration's (GIPSA) intention to request an extension for a currently approved collection of information. The collection of information is used to determine whether a State's central filing system for notifying farm product buyers of liens on farm products can be certified by the Secretary.

DATES: We invite you to comment on this notice; we will consider all comments that we receive by July 24, 2001.

ADDRESSES: Send comments to Gerald Grinnell, Economic/Statistical Support, Packers and Stockyards Programs, GIPSA, USDA, 1400 Independence Avenue, SW., Washington, DC 20250–3641; or via facsimile to (202) 690–1266.

Comments received may be inspected during normal business hours in the Economic/Statistical Support offices, room 3052 (same address as listed above).

FOR FURTHER INFORMATION CONTACT: For information regarding the collection of information activities and the use of the information, contact Gerald Grinnell, at (202) 720–7455 (same address as listed above).

For a copy of the collection of information, contact Sharon Vassiliades, GIPSA, Regulatory Contact, at (202) 720–1738.

SUPPLEMENTARY INFORMATION:

Title: ''Clear Title'' Regulations to implement section 1324 of the Food Security Act of 1985 (7 U.S.C. 1631).

OMB Number: 0580–0016.

Expiration Date of Approval: July 31, 2001.

Type of Request: Extension of a currently approved collection of information.

Abstract: The information is needed to carry out the Secretary's responsibility for determining whether a State's central filing system for notification of buyers of farm products of any mortgages or liens on the

products meets certification requirements under section 1324 of the Food Security Act of 1985. Section 1324 of the Food Security Act of 1985 requires that States implementing central filing systems for notification of liens on farm products must have such systems certified by the Secretary of Agriculture. GIPSA has been delegated responsibility for certifying the systems. Nineteen States currently have certified central filing systems.

Estimate of Burden: Public reporting and recordkeeping burden for this collection of information is estimated to average 12 hours per response.

Respondents: States seeking certification of central filing systems to notify buyers of farm products of any mortgages or liens on the products.

Estimated Number of Respondents: 1.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 12 hours.

We are asking the Office of Management and Budget (OMB) to extend its approval of our use of this collection of information activity for an additional 3 years.

We are soliciting comments to: (1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: May 18, 2001.

David R. Shipman,

Acting Administrator, Grain Inspection, Packers and Stockyards Administrator.

[FR Doc. 01–13269 Filed 5–24–01; 8:45 am]

BILLING CODE 3410–EN–U

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Grain Inspection, Packers and Stockyards Administration.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Grain Inspection, Packers and Stockyards Administration's (GIPSA) intention to request an extension for and revision to the currently approved information collection for ''Regulations Governing the National Inspection and Weighing System under the United States Grain Standards Act and under the Agricultural Marketing Act of 1946.''

DATES: We invite you to comment on this notice; we will consider all comments that we receive by July 24, 2001.

ADDRESSES: Send comments to Tess Butler, GIPSA, USDA, 1400 Independence Avenue, SW, Washington, DC 20250–3604; or FAX to (202) 690–2755; e-mail: *comments@gipsadc.usda.gov.*

Comments received may be inspected during normal business hours in the office listed above.

FOR FURTHER INFORMATION CONTACT: For information regarding the collection of information activities and the use of the information, contact Tess Butler (202) 720–7486, or at the address listed above.

Copies of this information collection can be obtained from Cathy McDuffie, the Agency Support Services, Specialist, at (301) 734–5190.

SUPPLEMENTARY INFORMATION: Congress enacted the United States Grain Standards Act (USGSA) (7 U.S.C. 71 *et seq.*) and the Agricultural Marketing Act (AMA) (7 U.S.C. 1621 et seq.) to facilitate the marketing of grain, oilseeds, pulses, rice, and related commodities. These statutes provide for the establishment of standards and terms which accurately and consistently measure the quality of grain and related products, provide for uniform official inspection and weighing, provide regulatory and service responsibilities, and furnish the framework for commodity quality improvement incentives to both domestic and foreign buyers. The Federal Grain Inspection Service (FGIS) of USDA's Grain Inspection, Packers and Stockyards Administration establishes policies, guidelines, and regulations to carry out the objectives of the USGSA and the AMA.

The USGSA, with few exceptions, requires official certification of export grain sold by grade. Official services are provided, upon request, for grain in domestic commerce. The AMA authorizes similar inspection and weighing services, upon request, for rice, pulses, flour, corn meal, and certain other agricultural products. Conversely, the regulations promulgating the USGSA and AMA require specific information collection and recordkeeping necessary to carry out requests for official services. Applicants for service must specify the kind and level of service desired, the identification of the product, the location, the amount, and other pertinent information in order that official personnel can efficiently respond to their needs.

Official services under the USGSA are provided through FGIS field offices and delegated and/or designated State and private agencies. Delegated agencies are State agencies delegated authority under the Act to provide official inspection service, Class X or Class Y weighing services, or both, at one or more export port locations in the State. Designated agencies are State or local governmental agencies or persons designated under the Act to provide either official inspection services, Class X or Class Y weighing services, or both, at locations other than export port locations. State and private agencies, as a requirement for delegation and/or designation, must comply with all regulations, procedures, and instructions in accordance with provisions established under the USGSA. FGIS field offices oversee the performance of these agencies and provide technical guidance as needed.

Official services under the AMA are performed, upon request, on a fee basis for domestic and export shipments either by FGIS employees, individual contractors, or cooperators. Contractors are persons who enter into a contract with FGIS to perform specified inspection services. Cooperators are agencies or departments of the Federal Government which have an interagency agreement or State agencies which have a reimbursable agreement with FGIS.

Title: Regulations Governing the National Inspection and Weighing System Under the USGSA and AMA of 1946.

OMB Number: 0580–0013.

Expiration Date of Approval: September 30, 2001.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The United States Grain Standards Act (7 U.S.C. 71 et seq.) and the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) provide that USDA inspect, certify and identify the class, quality, quantity and condition of agricultural products shipped or received in interstate and foreign commerce.

Estimate of Burden: Public reporting and record keeping burden for this collection of information is estimated to average .16 hours per response.

Respondents: Grain producers, buyers, and sellers, elevator operators, grain merchandisers, and official grain inspection agencies.

Estimated Number of Respondents: 3,200.

Estimated Number of Responses per Respondent: 920.8.

Estimated Total Annual Burden on Respondents: 467,964 hours.

Comments: Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or forms of information technology. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: May 18, 2001.

David R. Shipman,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 01–13270 Filed 5–24–01; 8:45 am]

BILLING CODE 3410–EN–U

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from the procurement list.

SUMMARY: This action adds to the Procurement List a commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List commodity and service previously furnished by such agencies.

EFFECTIVE DATE: June 25, 2001.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot (703) 603–7740.

SUPPLEMENTARY INFORMATION: On September 22, 2000, March 23, and March 30, 2001, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (65 FR 57313 and 66 FR 16175 and 17406) of proposed additions to and deletions from the Procurement List:

Additions

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodity and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodity and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodity and services.

3. The action will result in authorizing small entities to furnish the commodity and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and services proposed for addition to the Procurement List.

Accordingly, the following commodity and services are hereby added to the Procurement List:

Commodity

Frame, Transparency Mounting
6750–00–378–6825

Services

Administrative/General Support Services, Office of Personnel Management, Inspector General Office, Washington, DC

Heavy Equipment Operation, Camp Bullis, Texas, Janitorial/Grounds Maintenance, Chet Holifield Federal Building, 24000 Avila Road, Laguna Niguel, California

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will not have a severe economic impact on future contractors for the commodity and services.

3. The action will result in authorizing small entities to furnish the commodity and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and services deleted from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the commodity and service listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4. Accordingly, the following commodity and service are hereby deleted from the Procurement List:

Commodity

Handle, Paint Roller
7920–00–682–6512

Service

Janitorial/Custodial, Marine Corps Air Station Commissary, El Toro, California

Louis R. Bartalot,

Director, Program Evaluation and Analysis.

[FR Doc. 01–13271 Filed 5–24–01; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed addition to procurement list.

SUMMARY: The Committee is proposing to add to the Procurement List a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 25, 2001.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed addition, all entities of the Federal Government (except as otherwise indicated) will be required to procure the service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.

2. The action will result in authorizing small entities to furnish the service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following service has been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Service

Food Service Attendant, Hickam Air Force Base, Hawaii
NPA: Lanakila Rehabilitation Center, Honolulu, Hawaii

Louis R. Bartalot,

Director, Program Evaluation and Analysis.

[FR Doc. 01–13272 Filed 5–24–01; 8:45 am]

BILLING CODE 6353–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Deleware Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Delaware Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 4:30 p.m. on June 19, 2001, at the Buck Library in the Buena Vista Conference Center, 661 duPont Highway, New Castle, Delaware 19720. The purpose of the meeting is to hold a press conference to release the Committee's report, Delaware Citizens Guide to Civil Rights and Supporting Services, and to hear comments on the report from invited speakers representing minority community and civic organizations in Delaware.

Persons desiring additional information, or planning a presentation to the Committee, should contact Chairperson Dr. James E. Newton, 302–831–8683, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 21, 2001.

Edward A. Hailes, Jr.,

General Counsel.

[FR Doc. 01–13248 Filed 5–24–01; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: To Give Firms an Opportunity to Comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 04/18/01–05/17/01

Firm name	Address	Date petition accepted	Product
Whitestone Acquistion Corporation.	4265 W. Vernal Pike, Bloomington, IN 47404	04/27/01	Absorbent adult incontinence products, wearable and bedding.
NOG, Inc	12510 West Libson Road, Brookfield, WI 53005 ..	04/27/01	Components of oilfield valves, of non-driving axles for heavy trucks and of agricultural and construction equipment.
Alperin, Inc	1 Maxon Drive, Old Forge, PA 18518	04/27/01	Mens and boys trousers and jackets.
Porterbilt Company, Inc.	1727 Highway 93 South, Hamilton, MT 59840	04/27/01	Treated and untreated wood posts and rails for fencing, railings for decks and porches.
Current Industries, Inc ...	3720 Williamson Way, Bellingham, WA 98226	04/30/01	Electronic components including pilot lamp assemblies and heavy duty battery kits for computer related and other industries.
Hood Cable Company ...	6633 Highway 49 North, Hattiesburg, MS 39401 ..	04/30/01	Wiring assemblies for the automotive industry.
Faster Form Corporation	One Fast Form Circle, New Hartford, NY 13413 ..	04/30/01	Preserved and pressed floral giftware displays.
Central Decal Company, Inc.	6901 High Grove Blvd., Burr Ridge, IL 60521	05/04/01	Adhesive-backed pressure sensitive labels and decals.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 04/18/01–05/17/01—Continued

Firm name	Address	Date petition accepted	Product
Clark's Gringo Foods, Inc.	4977 Old Christoval, San Angelo, TX 76904	05/04/01	Salsa/chile mix.
Garden State Cutting Company, Inc.	217 Brook Avenue, Passaic, NJ 07055	05/15/01	Apparel cutting contractor.
Hoggan Health Industries, Inc.	12411 South 265 West, Draper, UT 84020	05/15/01	Exercise and medical fitness testing equipment.
Beistle Company	1 Beistle Plaza, Shippensburg, PA 17257	05/15/01	Holiday and party decorations made of paper.
Clothesmakers, Inc	2240 Old Lake Mary Rd., Sanford, FL 32771	05/17/01	Men's shirts of knitted fabric.

The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by Trade Adjustment Assistance, Room 7315, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: May 16, 2001.

Anthony J. Meyer,

Coordinator, Trade Adjustment and Technical Assistance.

[FR Doc. 01–13234 Filed 5–24–01; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1164]

Grant of Authority for Subzone Status; Volvo Construction Equipment North America, Inc. (Construction Equipment) Asheville, NC, Area

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for ''* * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, the North Carolina Department of Commerce, grantee of Foreign-Trade Zone 57, has made application to the Board for authority to establish special-purpose subzone status at the manufacturing facilities (construction equipment) of Volvo Construction Equipment North America, Inc., located near Asheville, North Carolina (FTZ Docket 38–2000, filed 7/17/2000);

Whereas, notice inviting public comment has been given in the **Federal Register** (65 FR 47377, 8/2/2000); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application would be in the public interest;

Now, Therefore, the Board hereby grants authority for subzone status at the construction equipment manufacturing facilities of Volvo Construction Equipment North America, Inc., located near Asheville, North Carolina (Subzone 57B), at the locations described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 15th day of May 2001.

Faryar Shirzad,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 01–13290 Filed 5–24–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1165]

Grant of Authority for Subzone Status; Caribbean Petroleum Corporation/ Caribbean Petroleum Refining, LP (Oil Refinery Complex) Bayamon, Puerto Rico

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for ''* * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, the Puerto Rico Industrial Development Company, grantee of Foreign-Trade Zone 7, has made application to the Board for authority to establish special-purpose subzone status at the oil refinery complex of Caribbean Petroleum Corporation/Caribbean Petroleum Refining, LP, located in

Bayamon, Puerto Rico (FTZ Docket 33–2000, filed 7/6/00);

Whereas, notice inviting public comment was given in the **Federal Register** (65 FR 43289, 7/13/00); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations would be satisfied, and that approval of the application would be in the public interest if approval is subject to the conditions listed below;

Now, Therefore, the Board hereby grants authority for subzone status at the oil refinery complex of Caribbean Petroleum Corporation/Caribbean Petroleum Refining, LP, located in Bayamon, Puerto Rico (Subzone 7F), at the locations described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28, and subject to the following conditions:

1. Foreign status (19 CFR 146.41, 146.42) products consumed as fuel for the petrochemical complex shall be subject to the applicable duty rate.

2. Privileged foreign status (19 CFR 146.41) shall be elected on all foreign merchandise admitted to the subzone, except that non-privileged foreign (NPF) status (19 CFR 146.42) may be elected on inputs covered under HTSUS Subheadings t2709.1000-t2710.00.1050, t2710.00.2500 and t2710.00.4510 which are used in the production of:

—petrochemical feedstocks (examiner's report, Appendix ''C'');
—products for export;
—and, products eligible for entry under HTSU # 9808.00.30 and # 9808.00.40 (U.S. Government purchases).

Signed at Washington, DC, this 15th day of May 2001.

Faryar Shirzad,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 01–13291 Filed 5–24–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Subpart 237.70, Mortuary Services, DFARS Clause 252.237–7011, Preparation History; DD Form 2063; OMB Number 0704–0231.

Type of Request: Extension.

Number of Respondents: 800.

Responses per Respondent: 1.

Annual Responses: 800.

Average Burden per Response: 30 minutes.

Annual Burden Hours: 400.

Needs and Uses: This requirement provides for the collection of necessary information from contractors regarding the results of the embalming process under contracts for mortuary services. The information is used to ensure proper preparation of the body for shipment and burial. The contractor uses DD Form 2063 to provide this information.

Affected Public: Business or Other For-Profit.

Frequency: On Occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Mr. David M. Pritzker. Written comments and recommendations on the proposed information collection should be sent to Mr. Pritzker at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Mr. Robert Cushing. Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: May 21, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–13186 Filed 5–24–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Invention for Licensing; Government-Owned Inventions

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy and are made available for licensing by the Department of the Navy.

U.S. Patent No. 6,192,168 (Navy Case No. 79,631) entitled ''Optical Waveguide-Flow Cell Integration Method'' and U.S. Provisional Patent No. 60/231,548 (Navy Case No. 79,856) entitled ''Pressure Relief Vent Fluid Control for Miniature Fluidics Devices''.

ADDRESSES: Requests for copies of the patents cited should be directed to the Naval Research Laboratory, Code 1008.2, 4555 Overlook Avenue, SW, Washington, DC 20375–5320, and must include the Navy Case number.

FOR FURTHER INFORMATION CONTACT: Catherine M. Cotell, Ph.D., Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, SW, Washington, DC 20375–5320, telephone (202) 767–7230.

(Authority: 35 U.S.C. 207, 37 CFR Part 404)

Dated: May 15, 2001.

J.L. Roth,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 01–13206 Filed 5–24–01; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board; Education.

ACTION: Notice of full and partially closed meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend. This notice does not meet the 15 days requirement for publishing in the **Federal Register** because the need to call this meeting followed Board action taken at the May 10–12, 2001 Board meeting; Board members' calendars to attend this meeting were finalized on May 21, 2001; and this meeting cannot be postponed as it has to be convened prior to a June 28, 2001 emergency Board meeting that has just been scheduled.

Individuals who will need accommodations for a disability in order to attend the meeting (i.e. interpreting services, assistive listening devices, materials in alternative format) should notify Munira Mwalimu at 202–357–6938 or at *Munira.Mwalimu@ed.gov* no later than May 31, 2001. We will attempt to meet requests after this date,

but cannot guarantee availability of the requested accomodation. The meeting site is accessible to individuals with disabilities.

Date: June 8, 2001.

Time: June 8—Committee on Standards, Design, and Methodology, 8:30 a.m.–1:00 p.m., (open), 1:00–2:00 p.m. (closed), 2:00 p.m.–3:30 p.m. (open).

Location: Madison Hotel, 15th and M Streets, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Munira Mwalimu, Operations Officer, National Assessment Governing Board, 800 North Capitol Street, NW, Suite 825, Washington, DC 20002–4233, Telephone: (202) 357–6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 412 of the National Education Statistics Act of 1994 (Title IV of the Improving America's Schools Act of 1994) (Pub. L. 103–382).

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress. The Board is responsible for selecting subject areas to be assessed, developing assessment objectives, identifying appropriate achievement goals for each grade and subject tested, and establishing standards and procedures for interstate and national comparisons.

The Committee on Standards, Design, and Methodology will meet on June 8, 2001 in open session from 8:30 a.m. to 1 p.m., in closed session from 1 p.m. to 2 p.m.; and will reconvene in open session from 2 p.m. to 3:30 p.m.

In the open sessions, the Committee on Standards, Design, and Methodology will discuss sampling and design issues pertaining to the National Assessment of Educational Progress (NAEP) 2002 program.

From 1–2 p.m. the Committee will meet in closed session to receive and discuss Independent Government Cost Estimates on contract initiatives for NAEP.

The meeting must be conducted in closed session because public disclosure of this information would likely have an adverse financial effect on the NAEP program. The discussion of this information would be likely to significantly frustrate implementation of a proposed agency action if conducted in open session. Such matters are protected by exemption 9(B) of 552b(c) of Title 5 U.S.C.

Summaries of the activities of the closed sessions and related matters, which are informative to the public and consistent with the policy of section 5 U.S.C. 5526(c), will be available to the public within 14 days of the meeting. Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Asessment Governing Board, Suite #825, 800 North Capitol Street, NW., Washington, DC from 8:30 a.m. to 5 p.m. Eastern Standard Time.

Dated: May 22, 2001.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 01–13295 Filed 5–24–01; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Arms Control and Nonproliferation; Proposed Subsequent arrangement

AGENCY: Department of Energy.

ACTION: Subsequent arrangement.

SUMMARY: This notice has been issued under the authority of section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160). The Department is providing notice of a proposed ''subsequent arrangement'' under the Agreement for Cooperation Concerning Civil Uses of Atomic Energy between the United States and Canada and Agreement for Cooperation in the Peaceful Uses of Nuclear Energy between the United States and the European Atomic Energy Community (EURATOM).

This subsequent arrangement concerns the retransfer of 72,414 kg of U.S.-origin natural uranium in the form of uranium hexafluoride, 48,952 kg of which is uranium, from the Cameco Corporation, Ontario, Canada to Urenco Capenhurst, England. The material, which is now located at Cameco Corp., Port Hope, Ontario, will be transferred to Urenco for toll enrichment. Upon completion of the toll enrichment, the material will be transferred to the Commonwealth Edison Company, Downers Grove, IL for use as fuel. The uranium hexafluoride was originally obtained by the Cameco Corp. pursuant to export license number XSOU8744.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, we have determined that this subsequent arrangement is not inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: May 21, 2001.

For the Department of Energy.

Trisha Dedik,

Director, International Policy and Analysis for Arms Control and Nonproliferation, Office of Defense Nuclear Nonproliferation.

[FR Doc. 01–13246 Filed 5–24–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Arms Control and Nonproliferation; Proposed Subsequent Arrangement

AGENCY: Department of Energy.

ACTION: Subsequent arrangement.

SUMMARY: This notice has been issued under the authority of section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160). The Department is providing notice of a proposed ''subsequent arrangement'' under the Agreement for Cooperation Concerning Civil Uses of Atomic Energy between the United States and Canada and Agreement for Cooperation in the Peaceful Uses of Nuclear Energy between the United States and the European Atomic Energy Community (EURATOM).

This subsequent arrangement concerns the retransfer of 110,436 kg of U.S.-origin natural uranium in the form of uranium hexafluoride, 74,655 kg of which is uranium, from the Cameco Corporation, Ontario, Canada to Urenco Capenhurst, England. The material, which is now located at Cameco Corp., Port Hope, Ontario, will be transferred to Urenco for toll enrichment. Upon completion of the toll enrichment, the material will be transferred to the Wolf Creek Nuclear Operating Corp., Burlington, KS for use as fuel. The uranium hexafluoride was originally obtained by the Cameco Corp. pursuant to export license number XSOU8744.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, we have determined that this subsequent arrangement is not inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: May 21, 2001.

For the Department of Energy.

Trisha Dedik,

Director, International Policy and Analysis for Arms Control and Nonproliferation, Office of Defense Nuclear Nonproliferation.

[FR Doc. 01–13247 Filed 5–24–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–81–000]

Alternate Power Source, Inc., Complainant, v. ISO New England, Inc., Respondents.; Notice of Complaint

May 21, 2001.

Take notice that on May 17, 2000, Alternate Power Source, Inc., filed a Complaint against the ISO New England, Inc. challenging the denial of a billing adjustment request.

Copies of said filing have been served upon NEPOOL Participants, the ISO New England, Inc., as well as upon the utility regulatory agencies of the six New England States.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before June 6, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222) for assistance. Answers to the complaint shall also be due on or before June 6, 2001. Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–13217 Filed 5–24–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–2032–000, et al.]

Central Maine Power Company, et al.; Electric Rate and Corporate Regulation Filings

May 17, 2001.

Take notice that the following filings have been made with the Commission:

1. Central Maine Power Company

[Docket No. ER01–2032–000]

Take notice that on May 14, 2001, Central Maine Power Company (CMP) tendered for filing with the Federal Energy Regulatory Commission (Commission) an Interconnection Agreement describing the rates and non-rate terms of service that CMP is providing Calpine Construction Finance Company, L.P. (Calpine) at its facility in Westbrook, Maine.

CMP requests an effective date of April 12, 2001. In addition, CMP asks that the Commission resolve certain identified issues that CMP and Calpine were unable to agree upon during negotiations.

Comment date: June 4, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Duke Energy Corporation

[Docket No. ER01–2036–000]

Take notice that on May 14, 2001, Duke Energy Corporation (Duke) tendered for filing a Service Agreement with Constellation Power Source, Inc. for Firm Point to Point Transmission Service under Duke's Open Access Transmission Tariff.

Duke requests that the proposed Service Agreement be permitted to become effective on May 4, 2001.

Duke states that this filing is in accordance with Part 35 of the Commission's Regulations and a copy has been served on the North Carolina Utilities Commission.

Comment date: June 4, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. The Montana Power Company

[Docket No. ER01–2037–000]

Take notice that on May 14, 2001, The Montana Power Company (Montana) tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 C.F.R. § 35.13 executed Long-term Firm Point-To-Point Transmission Service Agreements with Powerex under Montana's FERC Electric Tariff, Fourth Revised Volume No. 5 (Open Access Transmission Tariff).

A copy of the filing was served upon the Powerex.

Comment date: June 4, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Northern Indiana Public Service Company

[Docket No. ER01–2038–000]

Take notice that on May 14, 2001, Northern Indiana Public Service Company tendered for filing an executed Standard Transmission Service Agreement for Firm Point-to-Point Transmission Service between Northern Indiana Public Service Company and Northern Indiana Public Service Company (Energy Services).

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Firm Point-to-Point Transmission Service to Energy Services pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. OA96–47–000 and allowed to become effective by the Commission. Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of June 1, 2001.

Copies of this filing have been sent to Northern Indiana Public Service Company, the Indiana Utility Regulatory Commission, and the Indiana Office of Utility Consumer Counselor.

Comment date: June 4, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. New England Power Pool

[Docket No. ER01–2039–000]

Take notice that on May 14, 2001, the New England Power Pool (NEPOOL) tendered for filing conforming changes to Section 8.4.2 of NEPOOL Market Rule 8 necessary to eliminate provisions that conflict with net commitment period compensation. A July 1, 2001 effective date is requested.

NEPOOL states that copies of these materials were sent to the NEPOOL Participants and the six New England state governors and regulatory commissions.

Comment date: June 4, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Michigan Electric Transmission Company

[Docket No. ER01–2040–000]

Take notice that on May 14, 2001, Michigan Electric Transmission Company (Michigan Transco) tendered for filing executed Service Agreements for Firm and Non-Firm Point-to-Point Transmission Service with Exelon

Generation Company, LLC (Exelon) and Williams Energy Marketing & Trading Company (Williams) pursuant to the Joint Open Access Transmission Service Tariff filed on February 22, 2001 by Michigan Transco and International Transmission Company (ITC).

Michigan Transco is requesting an effective dates of April 24, 2001 for the Exelon Agreements and May 3, 2001 for the Williams Agreements.

Copies of the filed agreement were served upon the Michigan Public Service Commission, ITC, Exelon and Williams.

Comment date: June 4, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Michigan Electric Transmission Company

[Docket No. ER01–2041–000]

Take notice that on May 14, 2001, Michigan Electric Transmission Company (Michigan Transco) tendered for filing executed Service Agreements for Firm and Non-Firm Point-to-Point Transmission Service with FirstEnergy Services Corp. (Customer) pursuant to the Joint Open Access Transmission Service Tariff filed on February 22, 2001 by Michigan Transco and International Transmission Company (ITC).

Michigan Transco is requesting an effective date of April 27, 2001 for the Agreements.

Copies of the filed agreements were served upon the Michigan Public Service Commission, ITC, and the Customer.

Comment date: June 4, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Sierra Pacific Power Company, Nevada Power Company

[Docket No. ER01–2042–000]

Take notice that on May 14, 2001, Sierra Pacific Power Company and Nevada Power Company (jointly Operating Companies) tendered for filing Service Agreements (Service Agreements) with the following entities for Non-Firm and/or Short-Term Firm Point-to-Point Transmission Service under Sierra Pacific Resources Operating Companies FERC Electric Tariff, First Revised Volume No. 1, Open Access Transmission Tariff (Tariff):

1. Aquila Energy Marketing Corporation (Short-Term)
2. Sempra Energy Trading Corporation (Short-Term)
3. Colorado River Commission (Short-Term and Non-Firm)
4. Portland General Electric (Short-Term and Non-Firm)
5. Calpine Energy Services, L.P. (Short-Term and Non-Firm)

The Operating Companies are filing the executed Service Agreements with the Commission in compliance with Sections 13.4 and 14.4 of the Tariff and applicable Commission regulations. The Operating Companies also submitted revised Sheet Nos. 195, 195A and 196 (Attachment E) to the Tariff, which is an updated list of all current subscribers. The Operating Companies request waiver of the Commission's notice requirements to permit an effective date of May 15, 2001 for Attachment E, and to allow the Service Agreements to become effective according to their terms.

Copies of this filing were served upon the Public Utilities Commission of Nevada, the Public Utilities Commission of California and all interested parties.

Comment date: June 4, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. New England Power Company

[Docket No. ER01–2043–000]

Take notice that on May 14, 2001, New England Power Company (NEP) tendered for filing a service agreement between NEP and NRG Power Marketing Inc. (NRG) for Non-Firm Point-To-Point Transmission Service under NEP's FERC Electric Tariff, Second Revised Volume No. 9.

Copies of the filing have been served upon NRG and the Minnesota Public Utilities Commission.

Comment date: June 4, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Southwest Reserve Sharing Group

[Docket No. ER98–917–002]

Take notice that on May 14, 2001, the Southwest Reserve Sharing Group (SRSG) tendered for filing its compliance filing in accordance with orders issued by the Commission on June 25, 1998 and April 13, 2001, Southwest Reserve Sharing Group, 83 FERC ¶ 61,314 (1998), and Southwest Reserve Sharing Group, 95 FERC ¶ 61,0741 (Apr. 13, 2001).

Comment date: June 4, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. North Atlantic Energy Corporation

[Docket No. ER01–1757–001]

Take Notice that on May 14, 2001, Public Service Company of New Hampshire (Public Service), tendered for filing with the Commission revised signature pages to North Atlantic Energy Corporation's FERC Rate Schedules Nos. 1 and 3. On March 29, 2001, North Atlantic Energy Corporation (North Atlantic) had filed revised signature pages for incorporating the State of New Hampshire's consent to the changes in the North Atlantic Rate Schedules, acting through the Office of Attorney General for the State of New Hampshire. Subsequent to that filing, the Staff of the Commission requested North Atlantic to refile those signature pages with corrected pagination and changing the effective date of the Revised Rate Schedules from April 1, 2001 to May 1, 2001.

Copies of this filing were served upon the Office of the Attorney General for the State of New Hampshire, and the Executive Director and Secretary of the New Hampshire Public Utilities Commission.

Comment date: June 4, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Florida Power Corporation

[Docket Nos. ER01–1441–001 and OA96–73–005]

Take notice that on May 14, 2001, Florida Power Corporation (FPC) tendered for filing a refund report in compliance with the Commission's order dated April 12, 2001 in Docket Nos. ER01–1441–000 and OA96–73–004, Florida Power Corporation, 95 FERC ¶ 61,042. The Commission's order accepted the settlement agreement filed by FPC on February 28, 2001.

Copies of the filing were served upon (i) every participant in accordance with Rule 2010; and (ii) any person required by the Commission's rules to be served with the pleading or tariff or rate schedule filing, with respect to which the proceeding was initiated, in accordance with the requirements of Rule 602(d)(1) of the Commission's Rules of Practice and Procedure.

Comment date: June 4, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Southern Company Service, Inc.

[Docket No. ER01–1380–001]

Take notice that on May 14, 2001, Southern Company Services, Inc., acting as agent for Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, Savannah Electric and Power Company and Southern Power Company (collectively referred to as the Operating Companies), in compliance with an Order of the Commission dated April 27, 2001, tendered for filing new designations for the Operating Companies' Market Based Rate Power Sales Tariff (Market Rate Tariff).

The sole purpose of this filing is to change the designation appearing on the

Market Rate Tariff from First Revised Volume No. 4 to Second Revised Volume No. 4.

Comment date: June 4, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Idaho Power Company, IDACORP Energy Solutions, LP

[Docket No. ER01–1329–001]

Take notice that on May 14, 2001, Idaho Power Company (IPC) and IDACORP Energy Solutions, LP tendered for filing their compliance filing with the Commission's April 27, 2001 order in this proceeding.

Comment date: June 4, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. NRG Energy, Inc., Indeck Energy Services, Inc., Indeck Energy Services of Ilion, Inc., Indeck Ilion Cogeneration Corporation

[Docket No. EC01–96–000]

Take notice that on May 7, 2001, NRG Energy, Inc. (NRG), Indeck Energy Services, Inc. (Indeck), Indeck Energy Services of Ilion, Inc. (Indeck Ilion), and Indeck Ilion Cogeneration Corporation (Indeck Cogen) filed with the Federal Energy Regulatory Commission a joint application pursuant to Section 203 of the Federal Power Act and Part 33 of the Federal Energy Regulatory Commission's (Commission) regulations requesting authorization for disposition of jurisdictional facilities whereby Indeck, Indeck Ilion, and Indeck Cogen will transfer to NRG for cash and subject to certain purchase price adjustments at closing, all of the member and partnership interests of Indeck, Indeck Ilion, and Indeck Cogen in four generation projects under development or currently in operation. Specifically, NRG intends, as a result of the proposed transaction, to acquire ownership interests in two facilities, one operating 300 MW generating plant and one 150 MW generating plant under development, both located in Rockford, Illinois. NRG also intends to acquire in the proposed transaction two additional projects, one 58 MW generating plaint in operation in Ilion, New York and one 1,000 MW generating plant under development in Bourbonnais, Illinois. The joint applicants are requesting, pursuant to 18 CFR 388.112, privileged and confidential treatment of the information contained in Exhibits C and I to the joint application as certain of the documents contained therein contains information of a commercially sensitive nature.

Comment date: July 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. Energy East Corporation and RGS Energy Group, Inc.

[Docket No. EC01–97–000]

Take notice that on May 9, 2001, Energy East Corporation (Energy East) and RGS Energy Group, Inc. (RGS Group) filed with the Federal Energy Regulatory Commission, on behalf of their jurisdictional subsidiaries, a joint application pursuant to section 203 of the Federal Power Act for authorization of the disposition of jurisdictional facilities resulting from the transaction between Energy East and RGS Group pursuant to an ''Agreement and Plan of Merger'' dated February 16, 2001, by and among Energy East, RGS Group and Eagle Merger Corp. (Eagle).

Energy East will acquire 100 percent of the common stock of RGS Group. RGS Group will merge with and into Eagle, which will be a wholly owned subsidiary of Energy East at the effective time of the merger. Eagle will survive the merger as New RGS and will continue to conduct RGS Group's businesses under the name RGS Energy Group, Inc. as a direct, wholly owned subsidiary of Energy East. As soon as practicable after the merger, Energy East will transfer all of NYSEG's common stock to New RGS, so that NYSEG and RG&E can be operated under a combined management structure.

Comment date: July 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. Southwest Transmission Electric Power Cooperative

[Docket No. NJ01–05–000]

Take notice that on March 30, 2001, Southwest Transmission Electric Power Cooperative filed its Standards of Conduct.

Comment date: June 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. Basin Electric Power Cooperative, Inc.

[Docket No. NJ01–6–000]

Take notice that on May 14, 2001, Basin Electric Power Cooperative, Inc. (Basin Electric) tendered for filing with the Federal Energy Regulatory Commission (Commission), a Petition for Declaratory Order and revisions to its Open Access Transmission Service, Schedule Nos. 7 and 8, respectively, and increase the Annual Revenue Requirement, Attachment H.

Copies of the filing were served upon Basin Electric's transmission customers.

Comment date: June 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. Ameren Corporation on Behalf of: Union Electric Company, Central Illinois Public Service Company; American Electric Power Service Corporation on Behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company; Consumers Energy and Michigan Electric Transmission Company; Detroit Edison Company and International Transmission Company; Exelon Corporation on Behalf of: Commonwealth Edison Company, Commonwealth Edison Company of Indiana, Inc.; FirstEnergy Corp. on Behalf of: American Transmission Systems, Inc., The Cleveland Electric Illuminating Company, Ohio Edison Company, Pennsylvania Power Company, The Toledo Edison Company, Illinois Power Company, Northern Indiana Public Service Company, The Dayton Power and Light Company, Virginia Electric and Power Company

[Docket No. RT01–88–001]

Take notice that on May 15, 2000, the Alliance Companies (Ameren Corporation (on behalf of Union Electric Company and Central Illinois Public Service Company), American Electric Power Service Corporation (on behalf of Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company and Wheeling Power Company), Consumers Energy Company (and Michigan Electric Transmission Company), Exelon Corporation (on behalf of Commonwealth Edison Company and Commonwealth Edison Company of Indiana, Inc.), The Detroit Edison Company (on International Transmission Company), FirstEnergy Corp. (on behalf of American Transmission Systems, Inc., The Cleveland Electric Illuminating Company, Ohio Edison Company, Pennsylvania Power Company and The Toledo Edison Company), Illinois Power Company, Northern Indiana Public Service Company, The Dayton Power and Light Company, and Virginia Electric and Power Company) submitted a supplemental compliance filing in this proceeding which constitutes compliance with the non-rate compliance matters from the Federal Energy Regulatory Commission's January 24, 2001 Order in Docket Nos. ER99–3144–000 and EC99–80–000, contains a Section 203 request for the transfer of control of jurisdictional facilities on behalf of Northern Indiana

Public Service Company (NIPSCo), identifies new transmission-operating subsidiaries for two of the companies, provides additional details for the proposed energy imbalance service, and contains other minor supplements to the initial filing submitted in this proceeding on January 16, 2001.

Comment date: June 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–13215 Filed 5–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG01–213–000, et al.]

CinCap IX, LLC, et al. Electric Rate and Corporate Regulation Filings

May 18, 2001.

Take notice that the following filings have been made with the Commission:

1. CinCap IX, LLC

[Docket No. EG01–213–000]

Take notice that on May 16, 2001, CinCap IX, LLC tendered for filing with the Federal Energy Regulatory Commission (Commission), an application for determination of exempt wholesale generator status pursuant to section 32(a)(1) of the Public Utility Holding Company Act of 1935, as amended. The applicant is a limited liability company that will be engaged directly or indirectly and exclusively in the business of developing and ultimately owning and/or operating an approximately 88 megawatt gas-fired electric generating facility located in Erlanger, Kenton County, Kentucky and selling electric energy at wholesale.

Comment date: June 8, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. National Grid USA

[Docket No. EL01–80–000]

Take notice that on May 15, 2001, National Grid USA (National Grid) tendered for filing with the Federal Energy Regulatory Commission (Commission), a Petition for Declaratory Order declaring that National Grid will not be deemed a ''market participant'' as defined in section 35.34(b) of the Commission's Regulations with respect to the region served by the Alliance RTO. National Grid states that, since the Alliance RTO will be an independent transmission company controlled and managed by a Managing Member that is not a market participant, National Grid should therefore be eligible to be a candidate for the Managing Member of the Alliance RTO.

Comment date: June 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Portland General Electric Company

[Docket No. ES01–33–000]

Take notice that on May 15, 2001, Portland General Electric Company submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to issue short-term debt with not more than $450 million outstanding at any one time.

Comment date: June 8, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Avista Corporation

[Docket No. ER01–2044–000]

Take notice that on May 15, 2001, Avista Corporation tendered for filing a Service Agreement assigned Rate Schedule FERC No. 65, previously filed with the Federal Energy Regulatory Commission by Avista Corporation, formerly known as The Washington Water Power Company, under the Commission's Docket No. ER98–1141–000 with Engage Energy US, L.P. is to be terminated, effective May 14, 2001 by the request of El Paso Merchant Energy, L.P. per its letter dated May 4, 2001.

Comment date: June 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. New York State Electric & Gas Corporation

[Docket Nos. ER01–2045–000 and ER99–221–004]

Take notice that on May 15, 2001, New York State Electric & Gas Corporation (NYSEG) tendered for filing a notice of status change with the Commission in connection with the pending merger between Energy East Corporation and RGS Energy Group, Inc. (RGS). NYSEG also tendered for filing proposed changes to its FERC Electric Services Tariff (Tariff) and Statement of Policy and Standards of Conduct (Standards of Conduct). As a consequence of the proposed merger, NYSEG modified its Tariff and Standards of Conduct to incorporate RGS's affiliates as affiliates of NYSEG for purposes of transactions under the market-based FERC Electric Services Tariff.

Comment date: June 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. NYSEG Solutions, Inc.

[Docket Nos. ER01–2046–000 and ER99–220–007]

Take notice that on May 15, 2001, NYSEG Solutions, Inc. (NYSEG Solutions) filed a notice of status change with the Commission in connection with the pending merger between Energy East Corporation and RGS Energy Group, Inc. (RGS). NYSEG Solutions also tendered for filing proposed changes to its FERC Electric Services Tariff (Tariff) and Statement of Policy and Standards of Conduct (Standards of Conduct). As a consequence of the proposed merger, NYSEG Solutions modified its Tariff and Standards of Conduct to incorporate RGS's affiliates as affiliates of NYSEG Solutions for purposes of transactions under the market-based FERC Electric Services Tariff.

Comment date: June 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. South Glens Falls Energy, LLC

[Docket Nos. ER01–2047–000 and ER00–262–003]

Take notice that on May 15, 2001, South Glens Falls Energy, LLC (South Glens Falls) tendered for filing a notice of status change with the Commission in connection with the pending merger between Energy East Corporation and

RGS Energy Group, Inc. (RGS). South Glens Falls also tendered for filing proposed changes to its FERC Electric Services Tariff (Tariff) and Statement of Policy and Standards of Conduct (Standards of Conduct). As a consequence of the proposed merger, South Glens Falls modified its Tariff and Standards of Conduct to incorporate RGS's affiliates as affiliates of South Glens Falls for purposes of transactions under the market-based FERC Electric Services Tariff.

Comment date: June 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Carthage Energy, LLC

[Docket Nos. ER01–2048–000 and ER99–2541–002]

Take notice that on May 15, 2001, Carthage Energy, LLC (Carthage Energy) tendered for filing a notice of status change with the Commission in connection with the pending merger between Energy East Corporation and RGS Energy Group, Inc. (RGS). Carthage Energy also tendered for filing proposed changes to its FERC Electric Services Tariff (Tariff) and Statement of Policy and Standards of Conduct (Standards of Conduct). As a consequence of the proposed merger, Carthage Energy modified its Tariff and Standards of Conduct to incorporate RGS's affiliates as affiliates of Carthage Energy for purposes of transactions under the market-based FERC Electric Services Tariff.

Comment date: June 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Pinnacle West Energy Corporation

[Docket No. ER01–2049–000]

Take notice that on May 15, 2001, Pinnacle West Energy Corporation (PWE) tendered for filing an umbrella service agreement under PWE's market-based rate electric tariff, FERC Electric Tariff, Volume No. 1, between PWE and Pinnacle West Capital Corporation.

Comment date: June 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Idaho Power Company

[Docket No. ER01–2050–000]

Take notice that on May 15, 2001, Idaho Power Company tendered for filing with the Federal Energy Regulatory Commission a Service Agreement under Idaho Power Company's FERC Electric Tariff No. 6, Market Rate Power Sales Tariff, between Idaho Power Company and the Department of Energy, Western Area Power Administration.

Comment date: June 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Portland General Electric Company

[Docket Nos. ER01–2051–000 and ER98–1643–003]

Take notice that on May 15, 2001, Portland General Electric Company (PGE) tendered for filing as part of its FERC Electric Tariff, Fifth Revised Volume No. 11, proposed changes to Sheet No. 2, to become effective on April 26, 2001. The changes consist of removal of restrictions on the sale of power between PGE, on the one hand, and Sierra Pacific Power Company, Nevada Power Company, Sierra Pacific Energy Company, and Sierra Pacific Resources, on the other. The removal of these restrictions is based on the termination of the Asset Purchase Agreement, pursuant to which SPR would have acquired all issued and outstanding stock of PGE, a wholly-owned subsidiary of Enron Corp. The termination of this Asset Purchase Agreement was announced on April 26, 2001.

Copies of the filing were served upon all parties on the official service lists compiled by the Secretary of the Federal Energy Regulatory Commission in these proceedings.

Comment date: June 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Energetix, Inc.

[Docket Nos. ER01–2052–000 and ER97–3556–012]

Take notice that on May 15, 2001, Energetix, Inc. tendered for filing with the Commission a notification of change in status in connection with the pending merger between Energetix's parent corporation, RGS Energy Group, Inc., and Energy East Corporation (Energy East).

This filing includes a proposal to make certain changes to Energetix's market-based power sales tariff that will restrict Energetix's ability to sell or purchase energy and/or capacity to or from certain affiliates of Energy East.

Comment date: June 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Rochester Gas and Electric Corporation

[Docket Nos. ER01–2053–000 and ER98–3382–002]

Take notice that on May 15, 2001, Rochester Gas and Electric Corporation (RG&E) tendered for filing with the Commission a notification of change in status in connection with the pending merger between RG&E's parent corporation, RGS Energy Group, Inc., and Energy East Corporation (Energy East). This filing includes a proposal to make certain changes to RG&E's market-based power sales tariff that will restrict RG&E's ability to sell or purchase energy and/or capacity to or from affiliates of Energy East.

Comment date: June 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. CinCap IX, LLC

[Docket No. ER01–2054–000]

Take notice that on May 15, 2001, CinCap IX, LLC tendered for filing an application for authorization to sell power and ancillary services at market-based rates, and to reassign transmission capacity.

Comment date: June 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–13216 Filed 5–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–260–000]

Columbia Gas Transmission Corporation; Notice of Intent To Prepare an Environmental Assessment for the Proposed Columbia Line 10357 Project and Request for Comments on Environmental Issues

May 21, 2001.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Columbia Line 10357 Project involving construction and operation of facilities by Columbia Gas Transmission Corporation (Columbia) in New Castle County, Delaware, and Delaware and Chester Counties, Pennsylvania.[1] These facilities would consist of about 1.37 miles of pipeline and 12,000 horsepower (hp) of compression. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' was attached to the project notice Columbia provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet website (www.ferc.fed.us).

Summary of the Proposed Project

Columbia wants to expand the capacity of its facilities in Delaware and Pennsylvania to transport an additional 125,000 million British thermal units per day of natural gas to a planned FPL Energy Marcus Hook, L.P. 750-megawatt electric generating power plant to be built in the both New Castle County, Delaware and Delaware County, Pennsylvania. Columbia seeks authority to:

- Construct 1.3 miles of 20-inch pipeline to be located in New Castle County, Delaware and Delaware County, Pennsylvania.
- Construct a 6,000 hp electric driven compressor unit at existing Eagle Compressor Station located in Chester County, Pennsylvania.
- Construct a 6,000 hp electric driven compressor unit at existing Downingtown Compressor Station located in Chester County, Pennsylvania.
- Construct a new M&R Station on FPL Energy Marcus Hook Power Plant property to be located in Delaware County, Pennsylvania.
- Abandon two 1,250 hp compressor units at Downingtown Compressor Station.

Also, Philadelphia Electric Company (PECO) would make minor modifications to its existing electricity delivery system at the Eagle and Downingtown Compressor Station locations. PECO would feed the Downingtown substation off of an existing powerline. One pole would be installed within the Downingtown Compressor Station lot to facilitate bringing the tie-in line into the substation. In addition, PECO would install a new line from its existing Crombie substation in Chester County, Pennsylvania to the Eagle Compressor Station. The new line would be installed on a combination of new and existing poles, and would be entirely within existing PECO rights-of-way. No new electric rights-of-way would be required.

The exact locations of the project facilities are shown on maps in appendix 1.[2]

Land Requirement for Construction

Construction of the proposed facilities would require about 34.3 acres of land. Following construction, about 21.1 acres would be maintained as new aboveground facility sits. The remaining 13.2 acres of land would be restored and allowed to revert to its former use.

The EA Process

The National Environmental Policy Act (NEPA) requires Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[3] to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scooping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils
- Land use
- Water resources
- Cultural resources
- Vegetation and wildlife
- Air quality and noise
- Endangered and threatened species
- Hazardous waste
- Public safety

We will not discuss impacts to the following resource areas since they are not present in the project area, or would not be affected by the proposed facilities.

- Fisheries and wetlands

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is

[1] Columbia's application was filed with the Commission under section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] The appendices referenced in this notice are not being printed in **Federal Register**. Copies are available on the Commission's website at the ''RIMS'' link or from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE., Washington, DC 20426, or call (202) 208–1371. For instructions on connecting to RIMS refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

[3] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

published. We will consider all comments on the EA before we make our recommendations to the Commission.

Currently Identified Environmental Issues

We have already identified an issue that we think deserves attention based on a preliminary review of the proposed facilities and the environmental information provided by Columbia and FPL Energy Marcus Hook, L.P. This preliminary issue may be changed based on your comments and our analysis.

- There may be changes in noise impacts from the compressor unit additions at the existing compressor stations. We have not identified any other significant environmental issues.

Also, we have made a preliminary decision to not address the impacts of the FPL Energy Marcus Hook, L.P. nonjurisdictional cogeneration plant facilities. We will briefly described its location and status in the EA.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentar, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations/routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.
- Label one copy of the comments for the attention of Gas 2.
- Reference Docket No. CP01–260–000.
- Mail your comments so that they will be received in Washington, DC on or before June 20, 2001.

Comments, protests and interventions may also be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instruction on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm* under the link to the User's Guide. Before you can file comments you will need to create an account which can be created by clicking on ''Login to File'' and then ''New User Account.''

We may issue the EA for comment. If you are interested in receiving it, please return the Information Request (appendix 3). If you do not return the Information Request, you will be taken off the mailing list.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the processing known as an ''intervenor.'' Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2).[4] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Additional information about the proposed project is available from the Commission's Office of External Affairs at (202) 208–1088 or on the FERC website (www.ferc.fed.us) using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the ''CIPS'' link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the ''CIPS'' link, select ''DOCKET #'' from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

David P. Boergers,

Secretary.

[FR Doc. 01–13218 Filed 5–24–01; 8:45 am]

BILLING CODE 6717–01–M

[4] Interventions may also filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–161–000]

Southern Natural Gas Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed North System Expansion II Project and Request for Comments on Environmental Issues

May 21, 2001.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the North System Expansion II Project involving construction and operation of facilities by Southern Natural Gas Company (Southern) in Pickens, Jefferson, Shelby, St. Clair, Talladega, and Calhoun Counties in Alabama, and Noxubee and Lowndes Counties in Mississippi.[1] These facilities would consist of about 4.6 miles of new pipeline loop on Southern's 24-inch diameter 2nd North Main Line, replacement of about 11 miles of various diameter pipeline segments in Alabama, and requalifying pipeline segments by hydrostatic testing, and/or adding, removing, abandoning, replacing, requalifying and/or modifying appurtenant facilities within the project area. In addition, Southern proposes to add about 6,000 horsepower (hp) of compression at the existing Pell City Compressor Station in St. Clair County, Alabama. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain.

[1] Southern's application was filed with the Commission under section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' was attached to the project notice Southern provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet website (www.ferc.fed.us).

Summary of the Proposed Project

Southern wants to uprate its North Main System by adding and replacing pipeline segments, requalifying pipeline segments by hydrostatic testing, and/or adding, removing, abandoning, replacing, requalifying and/or modifying appurtenant facilities within the project area. Specifically, Southern seeks authorization to:

(a) Construct, own, and operate a total of about 4.6 miles of new pipeline loop on its 24-inch-diameter 2nd North Main Line extending from milepost (MP) 123.746 to MP 128.339 in Pickens County, Alabama (see table 1);

(b) Replace about 11 miles of various segments of the North Main Line and the Bessemer-Calera Line and Loop in Pickens, Jefferson, Shelby, St. Clair, Talladega, and Calhoun Counties, Alabama (see table 1). In conjunction with the replacement of segments of these pipelines certain segments would be tested hydrostatically in order to increase their maximum allowable operating pressure (MAOP) (see table 1);

(c) Abandon in place three 12-inch-diameter pipeline crossings of the Tombigbee River. These river crossings would be replaced by an existing 20-inch-diameter pipeline connected to both the North Main Line and North Main Loop Line. These pipelines constitute the river crossing for the North Main Line (see table 2);

(d) Install one electric-motor-driven 6,000 hp reciprocating compressor at the existing Pell City Compressor Station in St. Clair County, Alabama;

(e) Construct an interconnecting facility, the Calhoun Power Tap, at MP 370.0 on the North Main Line and North Main Loop Line, consisting of dual 18-inch taps and 1.0 mile of replacement pipeline in Calhoun County, Alabama, to provide service to Calhoun Power; and

TABLE 1.—PIPELINE FACILITIES FOR THE NORTH SYSTEM EXPANSION II PROJECT

Facility	Type	Length (miles)	Mileposts	County/State
Jurisdictional—Pipeline Construction:				
North Main Line (Replacement, A).	22″ Replacement	1.844	227.381–229.225	Pickens, AL.
North Main Line (Replacement B).	22″ Replacement	1.073	240.978–242.051	Pickens, AL.
2nd North Main Line	New 24″ Loop Pipeline	4.613	123.726–128.339	Pickens, AL.
Bessemer Calera 12″ Line	12″ Replacement	0.017	10.479–10.496	Jefferson, AL.
Bessemer-Calera 8″ Loop Line.	12″ Replacement	2.400	12.900–15.300	Jefferson, AL.
Bessemer-Calera 8″ Loop Line (Cahaba River).	12″ Replacement	0.2	20.900–21.100	Shelby, AL.
North Main Line (Replacement C).	20″ Replacement	0.496	354.303–354.799	St. Clair, AL.
North Main Line (Replacement D).	20″ Replacement	0.169	355.556–355.725	St. Clair, AL.
North Main Line (Replacement E).	20″ Replacement	3.140	356.360–359.500	Talladega, AL.
North Main Line (Replacement F).	20″ Replacement	1.717	367.150–368.867	Talladega/Calhoun, AL.
North Main Line (Replacement G).	20″ Replacement	1.050	369.650–370.700	Calhoun, AL.
Pipeline Requalification:				
Bassemer-Calera 12″ Line	Hydrostatic Test	2.674	7.972–10.646	Jefferson, AL.
Bessemer-Calera 8″ Loop Line.	Hydrostatic Test	2.319	21.013–23.332	Shelby, AL.
North Main Line (Requalification 1).	Hydrostatic Test	0.757	354.799–355.556	St. Clair, AL.
North Main Line (Requalification 2).	Hydrostatic Test	0.635	355.725–356.360	Talladega, AL.
North Main Line (Requalification 3).	Hydrostatic Test	1.093	368.710–369.803	Calhoun, AL.
Non-Jurisdictional—Pipeline Construction:				
Calhoun Power Pipeline 16″	New Pipeline	1.000		Calhoun, AL.

TABLE 2.—ABOVEGROUND FACILITIES FOR THE NORTH SYSTEM EXPANSION II PROJECT

Facility	New/modified	Type of work	Mileposts	County/state
Jurisdictional:				
Brooksville Junction	Modified	New Feed Line	208.478	Noxubee, MS.
M.V.G. Farm Tap 121	Modified	Remove Farm Tap	209.767	Noxubee, MS.
Pugh Tap	Modified	New Check Valve	217.500	Noxubee, MS.

TABLE 2.—ABOVEGROUND FACILITIES FOR THE NORTH SYSTEM EXPANSION II PROJECT—Continued

Facility	New/modified	Type of work	Mileposts	County/state
Togo Gate	Modified	Crossovers	220.927	Lowndes, MS.
M.V.G. Farm Tap 123	Modified	Over-pressure Protection	223.100	Lowndes, MS.
Tombigbee River Crossing (Auxiliary River Crossing Line).	Modified	Disconnect and abandon line; replace Valves and Fittings.	224.189–224.350 224.550–224.606	Lowndes, MS.
Reform Tap	Modified	Over-pressure Protection	241.887	Pickens, AL.
Reform Compressor Station	Modified	Tap, Pigging Facilities, Valves, Regulators, Over-Pressure Protection.	242.223	Pickens, AL.
Crossover and Pigging Facility.	New	Add New Crossover and Pigging Facilities.	123.746	Pickens, AL.
Pleasant Grove Tap, Gate Setting and Meter Station.	Modified	Tap and Tap Line	7.972	Jefferson, AL.
Dr. Cales Farm Tap (Abandoned pursuant to blanket certificate authorization).	Modified	Remove Taps	8.955	Jefferson, AL.
Bessemer Lateral Tap	Modified	Check Valve and Blind Flange	10.429	Jefferson, AL.
Bessemer Gate and Crossover.	Modified	Replace and Remove Valves	10.646	Jefferson, AL.
NATCO Tap	Modified	Remove Obsolete Tap	14.655	Jefferson, AL.
Bessemer No. 2 Tap and Meter Station.	Modified	Replace Tap and Install New Tap Line.	14.740	Jefferson, AL.
Hopewell Block Gate	Modified	Test Crossovers	15.537	Jefferson, AL.
Genery Gap Tap and Meter Station.	Modified	Test or Remove Taps	19.498	Shelby, AL.
Cahaba Field Tap	Modified	Install Blind Flange	22.200	Shelby, AL.
Calera Line Regulatory Station.	Modified	Valve and Tap Settings	23.332	Shelby, AL.
Helena-Alagasco Meter Station and Tap.	Modified	Relocate Taps	23.332	Shelby, AL.
Gas Cooler at Tarrant Compressor Station (2nd North Mail Line.	Modified	Install Electric Motor Fin Fan Cooler.	321.947	Jefferson, AL.
Compressor at Pell City Compressor Station (North Main Line/2nd North Main Line).	Modified	Install 6000 HP Electric Driven Compressor.	352.478	St. Clair, AL.
Pell City Compressor Station Power Substation.	Modified	Construct 115kV/4160V Capacity Electrical Substation.	([1])	St. Clair, AL.
Vincent Tap and Meter Station (North Main Line).	Modified	Monitor, Regulator and Tap Valve	352.700	St. Clair, AL.
Lincoln No. 2 Tap and Meter Station.	Modified	Monitor, Regulator and Tap Valve	353.834	St. Clair, AL.
Childersburg No. 2 Tap and Meter Station.	Modified	Monitor, Regulator and Tap Valve	358.000	Talladega, AL.
Rowe Block Gate No. 1	Modified	Gate Setting, blowoff crossovers	358.510	Talladega, AL.
Lincoln Tap and Meter Station.	Modified	Monitor, Regulator and Tap Valve	360.365	Talladega, AL.
Talladega Tap	Modified	Monitor, Regulator and Tap Valve	361.014	Talladega, AL.
Lincoln Block Gate	Modified	Gate Setting, blowoff crossovers	361.666	Talladega, AL.
Talladega Raceway Tap	Modified	Monitor, Regulator and Tap Valve	365.385	Talladega, AL.
Eastaboga Gate	Modified	Gate Setting	369.078	Calhoun, AL.
Calhoun Power Meter Station	New	Meter Station	370.000	Calhoun, AL.
Anniston No. 3 Tap and Meter Station.	Modified	Monitor and Regulator	371.641	Calhoun, AL.
Coldwater Regulator Station	New	Monitor, Regulator and Block Valves.	371.852	Calhoun, AL.
Non-Jurisdictional:				
Pell City Compressor Station 115 kV Power Line.	New	New 115 kV Power Line	([1])	St. Clair, AL.

[1] Approximate M.P. 352.478 on Southern's North Main Line.

(f) modify several aboveground facilities in Mississippi and Alabama (see table 2).

Nonjurisdictional facilities

(a) Calhoun Power would construct certain nonjurisdictional facilities consisting of a simple cycle power generation plant, a meter station, and about 1 mile of 16-inch-diameter connecting pipeline extending from Southern's mainline to its plant. Southern would operate and maintain this connecting pipeline in Calhoun County, Alabama for Calhoun Power.

(b) Alabama Power would construct a 0.5-mile-long nonjurisdictional 115 kV transmission line to provide power to the compressor to be installed at the Pell City Compressor Station. Alabama Power would coordinate construction of this power line with the construction of the new compressor.

The location of the project facilities is shown in appendix 1.[2]

Land Requirements for Construction

Construction of the proposed facilities would require about 274.5 acres of land. Following construction, about 92.5 acres of land would be restored and allowed to revert to its former use. No new permanent right-of-way is proposed by Southern except for the two new meter stations (Calhoun Meter Station and Coldwater Regulator Station) which would require a total of 8.09 acres (0.46 acre permanent and 7.63 existing permanent right-of-way).

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public convenience and Necessity. NEPA also requires us [3] to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils
- Water resources, fisheries, and wetlands
- Vegetation and wildlife
- Endangered and threatened species
- Public safety
- Land use
- Cultural resources
- Air quality and noise
- Hazardous waste

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section below.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Southern. This preliminary list of issues may be changed based on your comments and our analysis.

- Eight federally listed endangered or threatened species may occur in the project area (bald eagle, red cockaded woodpecker, Cahaba shiner, finelined pocketbook mussel, flattened musk turtle, goldline darter, round rocksnail, and triangular kidneyshell mussel). With the exception of the bald eagle and red cockaded woodpecker all other federally listed species occur in the Cahaba River. Southern proposes to directionally drill the Cahaba river which would avoid impact on these species.
- The project would require three major waterbody crossings greater than 100 feet in width (Cahaba River, Coosa River, and Blue Eye Creek).
- A total of 72 residences are located within 50 feet of the construction work area, of which 50 are within 25 feet of the construction work area.

In addition, the project would involve lands owned by the City of Bessemer and the University of Alabama, the State of Alabama along the Bessemer-Calera Lines; and the property of the Alabama Development Office on the North Main Line. All of these lands are crossed by the existing pipelines.

Also, we have made a preliminary decision to not address the impacts of the nonjurisdictional facilities. We will briefly describe their location and status in the EA.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

Send an original and two copies of your letter to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St., N.E., Room 1A, Washington, DC 20426.

- Label one copy of the comments for the attention of Gas 2.
- Refernce Docket No. CP01–161–000.
- Mail your comments so that they will be received in Washington, DC on or before June 21, 2001.

Comments may also be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm* under the link to the User's Guide. Before you can file comments you will need to create an account which can be created by clicking on ''Login to File'' and then ''New User Account.''

We may mail the EA for comment. If you are interested in it, please return the information request (appendix 3).

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor''. Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2).[4] Only intervenors have the right to seek rehearing of the Commission's decision.

[2] The appendices referenced in this notice are not being printed in the **Federal Register.** Copies are available on the Commission's website at the ''RIMS'' link or from the Commission's Public reference and Files Maintenance Branch, 888 First Street, N.E., Washington, D.C. 20426, or call (202) 208–1371. For instructions on connecting to RIMS refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

[3] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

[4] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Additional information about the proposed project is available from the Commission's Office of External Affairs at (202) 208–1088 or on the FERC website (www.ferc.fed.us) using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the ''CIPS'' link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

David P. Boergers,

Secretary.

[FR Doc. 01–13219 Filed 5–24–01; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6618–4]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 14, 2000 (65 FR 20157).

Draft EISs

ERP No. D–AFS–J65334–MT Rating EC2, Keystone-Quartz Ecosystem Management, Implementation, Beaverhead-Deerlodge National Forest, Wise River Ranger District, Beaverhead County, MT.

Summary: EPA expressed environmental concerns with low standard roads. EPA suggests that the final EIS include information regarding enforcement of off-road vehicle travel restrictions, and proposed noxious weed treatment, including potential environmental impacts from weed control chemicals.

ERP No. D–AFS–J65335–MT Rating EC2, Dry Fork Vegetation Restoration Project, To Improve Forest and Watershed Health and Sustainability, King Hill Ranger District, Lewis and Clark National Forest, Cascade and Judith Basin Counties, MT.

Summary: EPA expressed environmental concerns with low standard roads and recommends restoration. EPA recommends that the final EIS include information on aquatic monitoring, enforcement of off-road vehicle travel restrictions, proposed noxious weed treatments, and potential environmental impacts from weed control chemicals.

ERP No. D–AFS–L65376–OR Rating EC2, Silvies Canyon Watershed Restoration Project, To Improve the Ecosystem Health of the Watershed, Grant and Harney Counties, OR.

Summary: EPA expressed environmental concerns with road densities exceeding forest plan objectives, access issues posed by ATVs, adverse impacts to aquatic and upland resources and impacts from livestock grazing activities. EPA suggests that the final EIS include a Clean Water Act Section 303(d) Protocal for listed waters, and a smoke management program for prescribe fires.

ERP No. D–BLM–K67054–NV Rating 3, Phoenix Project, Expansion of Current Mining Operations and Processing Activities, Battle Mountain, Plan of Operations, Lander County, NV.

Summary: EPA determined that the DEIS was inadequate because it lacked any itemized cost estimate for closure and perpetually operating and maintaining the site, and did not include an adequate guarantee that a financial instrument will exist to ensure funds would be available in perpetuity to prevent degradation of groundwater quality and impacts to biological resources. Given the very clear evidence that this mining project would create a perpetual and significant acid mine drainage problem, EPA believes a cost estimate and detailed discussion is necessary in order to determine the magnitude and certainty of the mitigation measures.

ERP No. D–DOE–K08023–AZ Rating EC2, Sundance Energy Project, Interconnecting a 600-megawatt Natural Gas-Fired, Simple Cycle Peaking Power Plant with Western's Electric Transmission System, Construction and Operation on Private Lands, Pinal County, AZ.

Summary: EPA expressed environmental concerns regarding the availability of process water, the storage and use of wastewater, potential significant air quality impacts, and consultation with Indian Tribal governments. EPA advocated an energy development approach which assures a long-term, sustainable balance between available energy supplies, energy demand, and protection of ecosystem and human health.

ERP No. D–NPS–G65079–OK Rating LO, Washita Battlefield National Historic Site, General Management Plan, Implementation, Roger Mill County, OK.

Summary: EPA expressed lack of objections.

ERP No. DA–DOE–A22088–SC Rating EC2, Savannah River Site Salt Processing Alternatives, Evaluation for Separating High-Activity and Low-Activity Fractions of Liquid High-Level Radio-active Waste and Potential Environmental Impacts of Alternatives to the In-Tank-Precipitation Process (ITP), Aiken and Barnwell Counties, SC.

Summary: EPA expressed environmental concerns regarding cumulative impacts and the need to provide additional alternative analysis.

Dated: May 22, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–13293 Filed 5–24–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6618–3]

Environmental Impact Statements; Notice of Availability

Responsible Agency:

Office of Federal Activities, General Information (202) 564–7167 or www.epa.gov/oeca/ofa

Weekly receipt of Environmental Impact Statements Filed May 14, 2001 Through May 18, 2001

Pursuant to 40 CFR 1506.9.

EIS No. 010174, FINAL EIS, FHW, CA, U.S. Highway 101 Transportation Improvement Project, between Vineyard Avenue to Johnson Drive, Funding, in the Cities of Oxnard and San Buenaventura, Ventura County, CA, Due: June 18, 2001, Contact: Jeff Kolb (916) 498–5037.

This EIS should have appeared in the FR on 05/18/2001.

The 30-day Wait Period is Calculated from 05/18/2001.

EIS No. 010176, DRAFT EIS, FRC, NY, Upper Hudson River Hydroelectric Project, Relicensing the E.J. West Project (FERC—No. 2318–002), Stewart Bridge Project (FERC—No. 2047–004), Hudson River Project (FERC—No. 2482–014) and Feeder Dam Hydroelectric Project (FERC—No. 2554–003), Saratoga, Fulton and Hamilton Counties, NY, Due: July 09, 2001, Contact: Lee Emery (202) 219–2779.

EIS No. 010177, DRAFT EIS, BLM, NV, Falcon to Gonder 345kV Transmission Project, Construction, Resource Management Plan Amendments, Right-of-Way Grant, Lander, Elko, Eureka and White Pine Counties, NV, Due: August 23, 2001, Contact: Mary Craggett (775) 635–4060.

EIS No. 010178, DRAFT EIS, FHW, NM, US 70 Corridor Improvement, Between Ruidoso Downs to Riverside, Implementation, Right-of-Way Acquisition, Lincoln County, NM, Due: July 09, 2001, Contact: Gregory D. Rawling (505) 820–2027.

EIS No. 010179, FINAL EIS, USN, HI, North Pacific Acoustic Laboratory Project, Reuse of Low Frequency Sound Source and Cable for Use in Acoustic Thermometry of Ocean Climate (ATOC) Research, Kauai, HI, Due: June 25, 2001, Contact: Kathleen Vigness Raposa (401) 847–7508.

EIS No. 010180, DRAFT EIS, FHW, CA, CA–120 Oakdale Expressway Project, Construction and Operation, Post Mile 3.0 to Post Mile R12.9 near Oakdale, Funding, Section 404 Permit, NPDES Permit, Stanislaus County, CA, Due: July 09, 2001, Contact: Glenn Clinton (916) 498–5041.

EIS No. 010181, DRAFT EIS, AFS, OR, Drew Creek, Diamond Rock and Divide Cattle Allotments, Issuance of Term Grazing Permits on Livestock Allotments on Tiller Ranger District, Implementation, Umpqua National Forest, Douglas and Jackson Counties, OR, Due: July 09, 2001, Contact: Wes Yamamoto (541) 825–3201.

EIS No. 010182, DRAFT EIS, AFS, MT, North Elkhorns Vegetation Project, Elkhorn Wildlife Management Unit, Implementation, Strawberry Butte Area, Helena National Forest, Jefferson County MT, Due: July 09, 2001, Contact: Jodie Canfield (406) 266–3425.

EIS No. 010183, DRAFT EIS, FAA, CA, Santa Barbara Airport Improvements, Extension of Runway Safety Areas for Runway 7/25, Expansion of the Airline Terminal Building, New Air Cargo Building, New Taxiway M, Pavement of Taxiway B, Additional T-Hangers and a New On-Airport Service Road, Funding, COE Section 404 and 10 Permits, Santa Barbara County, CA, Due: July 09, 2001, Contact: David B. Kessler (310) 725–3615.

EIS No. 010184, FINAL EIS, FHW, TX, US Highway 183 Alternate Project, Improvements from RM–620 to Approximately Three Miles North of the City of Leander, Williamson County, TX, Due: June 25, 2001, Contact: Patrick Bauer (512) 916–5511.

EIS No. 010185, DRAFT EIS, USA, KY, U.S. Army Armor Center and Fort Knox Northern Training Complex, Construction and Operation of a Multi-Purpose Digital Training Ranger and a Series of Maneuver Areas, Drop and Landing Zones, Fort Knox, KY, Due: July 09, 2001, Contact: Tony Rekas (703) 614–4991.

Amended Notices

EIS No. 010142, DRAFT EIS, AFS, UT, Uinta National Forest Revised Land and Resource Management Plan, Implementation, Juab, Sanpete, Tooele, Utah and Wasatch Counties, UT , Due: August 02, 2001, Contact: Peter W. Karp (801) 377–5780. Revision of FR Notice Published on 04/26/2001: CEQ Review Period Ending 07/26/2001 has been Extended to 08/02/2001.

EIS No. 010165, THIRD DRAFT EIS, AFS, UT, CO, Flat Canyon Federal Coal Lease Tract (UTU–77114), Application for Leasing, Manit-La Sal National Forest, Ferron-Price Ranger District, Sanpete and Emery Counties, UT , Due: July 02, 2001, Contact: Carter Reed (AFS) (435) 637–2817. Revision of FR notice published on 05/18/2001: Correction to Title and Contact Persons and Telephone Numbers. US Department of Agriculture, Forest Service and US Department of the Interior Bureau of Land Management are Joint Lead Agencies for the above Project. Stan Perks, Phone Number 801–539–4038 is the Contact Person for Bureau of Land Management.

EIS No. 010084, DRAFT SUPPLEMENT, FAA, MA, Logan Airside Improvements Planning Project (EOEA #10458), Construction and Operation of a new Unidirectional Runway 14/32, Centerfield Taxiway and Add'l Taxiway Improvements, New Information, Providing Clarification of the Delay Problems, Boston Logan Int'l Airport, Federal Funding, Airport Layout Plan and NPDES Permit, Boston, MA, Due: June 08, 2001, Contact: John Silva (781) 238–7602. Revision of FR Notice Published on 03/23/2001: CEQ Review Period Ending on 05/07/2001 has been Extended to 06/08/2001.

Dated: May 22, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities

[FR Doc. 01–13294 Filed 5–24–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6985–1]

Science Advisory Board; Notification of Public Advisory Committee Meetings

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the National-Scale Air Toxics Assessment (NATA) Review Panel (hereafter, ''NATA Review Panel'') of the USEPA Science Advisory Board's (SAB) Executive Committee (EC) will meet on the dates and times noted below. All times noted are Eastern Standard Time. All meetings are open to the public; however, seating is limited and available on a first come basis. *Important Notice:* Documents that are the subject of SAB reviews are normally available from the originating EPA office and are not available from the SAB Office—information concerning availability of documents from the relevant Program Office is included below.

1. EC/NATA Review Panel Conference Call—May 25, 2001

The NATA Review Panel will conduct a public conference call as a technical editing working session on Friday, May 25, 2001 from 10 am to 12 noon (Eastern Standard Time). The call will be hosted out of the EPA Science Advisory Board Conference Room (Room 6013), Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20004. Interested members of the public may attend in person or connect to the conference by phone. The original purpose of the call was to provide Panel Members with the opportunity to reach closure and to receive public comments on the draft report. However, during the May 14 public conference call, the NATA Panelists requested additional time to edit the draft report (see 66 FR 24137, May 11, 2001). It is anticipated that the draft report, once it becomes a consensus draft, will also be posted on the SAB website. It is now anticipated

to be posted around June 1, 2001. See below for details of the review, to request any supplemental materials from the Agency or ask questions on materials already received from the Agency.

Providing Public Comments—The NATA Review Panel will not be accepting public comments at this conference call, because this will be a continued technical editing working session for the NATA Review Panel to complete its preparation of the public draft report. Oral and written public comments were previously accepted at the March 20–21, 2001 meeting in review of this topic.

Availability of Review Materials—All the Agency OAQPS NATA-related review and informational materials, including the NATA Report, the Appendices, all briefing and presentation materials previously provided to the SAB and may be obtained on the web at the following URL site: *http://www.epa.gov/ttn/uatw/sab/sabrev.html/.* Further information on obtaining the Agency's review document and supporting appendices is found in previous FR notices (see 66 FR 9846, February 12, 2001 and 66 FR 24137, May 11, 2001).

For Further Information: Members of the public desiring additional information about the meeting should contact Dr. K. Jack Kooyoomjian, Designated Federal Officer (DFO), National-Scale Air Toxics Assessment Review Panel, US EPA Science Advisory Board (1400A), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460 (FedEx address: US EPA Science Advisory Board, Suite 6450, 1200 Pennsylvania Avenue, NW., Washington, DC 20004); telephone/voice mail at (202) 564–4557; fax at (202) 501–0582; or via e-mail at *kooyoomjian.jack @epa.gov.* To obtain information for logging onto the conference call, please contact Ms. Betty Fortune. The draft agenda will be available approximately one week prior to the meeting on the SAB website (*http://www.epa.gov/sab*) or from Ms. Betty Fortune at (202) 564–4534; fax: (202) 501–0582; or e-mail at: *fortune.betty@epa.gov.*

2. EC/NATA Review Panel Conference Call—June 13, 2001

On Wednesday, June 13, 2001, the NATA Review Panel will conduct a public conference call from 11:00 am to 1:00 pm (Eastern Standard Time) to reach closure on its draft report in review of the EPA document entitled ''National-Scale Air Toxics Assessment for 1996,'' EPA–453/R–01–003, dated January, 2001 and supporting appendices. This EPA document represents an initial national-scale assessment of the potential health risks associated with inhalation exposures to 32 air toxics identified as priority pollutants by the Agency's Integrated Urban Air Toxics Strategy, plus diesel emissions. More information about the previous meetings can be found in 66 FR 9846, February 12, 2001, and 66 FR 24137, May 11, 2001. The NATA Review Panel is commenting on the charge questions which were outlined in the above **Federal Register** notices and pertain to appropriateness of the overall approach, including the data, models, and methods used, and the ways these elements have been integrated, as well as to suggest ways to improve these approaches for subsequent national-scale assessments. The public and the Agency will be able to comment on three aspects of the NATA Panel's draft report, namely: (1) Has the NATA Review Panel adequately responded to the questions posed in the charge?; (2) Are any statements or responses made in the draft unclear?; and, (3) Are there any technical errors?

Following the June 13, 2001 conference call meeting, the NATA Review Panel plans to revise its draft report and forward it to the SAB Executive Committee for final review and approval, prior to transmittal to the Agency. This review will be announced in a subsequent **Federal Register** notice.

Providing Comments—In accord with the Federal Advisory Committee Act (FACA), the public and the Agency are invited to submit written or oral comments on the above three questions that are the focus of the review. Requests to make comments should be received by June 6, 2001 by Ms. Betty Fortune, EPA Science Advisory Board, Mail Code 1400A, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington DC 20460. (Telephone (202) 564–4534, FAX (202) 501–0582; or via e-mail at *fortune.betty@epa.gov*). The SAB will have a brief period available during the conference call for applicable oral public comment. Therefore, anyone wishing to make oral comments on the three focus questions above, but that are not duplicative of the written comments previously submitted on this topic, must contact Dr. K. Jack Kooyoomjian, Designated Federal Officer for the NATA Review Panel (see contact information below), *in writing* no later than June 6, 2001. In order to be accepted into the public record, all comments must be received (postmarked) no later than two working days following the meeting.

For Further Information: Any member of the public wishing further information concerning this meeting should contact Dr. K. Jack Kooyoomjian, Designated Federal Officer, US EPA Science Advisory Board (1400A), 1200 Pennsylvania Avenue, NW, Washington, DC 20460–0001; telephone (202) 564–4557; FAX (202) 501–0582; or via e-mail at *kooyoomjian.jack@epa.gov.* To obtain information on how to participate in the conference call, please contact Ms. Betty Fortune (see contact information below). A draft agenda for the teleconference will be posted on the SAB website (*www.epa.gov/sab*) approximately one week prior to the conference call.

Providing Oral or Written Comments at SAB Meetings

It is the policy of the Science Advisory Board to accept written public comments of any length, and to accommodate oral public comments whenever possible. The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

Oral Comments: In general, each individual or group requesting an oral presentation at a face-to-face meeting will be limited to a total time of ten minutes. For conference call meetings, opportunities for oral comment will usually be limited to no more than three minutes per speaker and no more than fifteen minutes total, unless otherwise stated. Deadlines for getting on the public speaker list for a meeting are given above. Speakers should bring at least 35 copies of their comments and presentation slides for distribution to the reviewers and public at the meeting.

Written Comments: Although the SAB accepts written comments until the date of the meeting (unless otherwise stated), written comments should be received in the SAB Staff Office at least one week prior to the meeting date so that the comments may be made available to the committee for their consideration. Comments should be supplied to the appropriate DFO at the address/contact information noted above in the following formats: One hard copy with original signature, and one electronic copy via e-mail (acceptable file formats: WordPerfect, Word, or Rich Text files (in IBM–PC/Windows 95/98 format). Those providing written comments and who attend the meeting are also asked to bring 25 copies of their comments for public distribution.

General Information—Additional information concerning the EPA Science Advisory Board, its structure, function, and composition, may be found on our Website (http://www.epa.gov/sab) and

in The FY2000 Annual Report of the Staff Director which is available from the SAB Publications Staff at (202) 564–4533 or via fax at (202) 501–0256. Committee rosters, draft Agendas and meeting calendars are also located on our website.

Meeting Access—Individuals requiring special accommodation at this meeting, including wheelchair access to the conference room, should contact the appropriate Dr. Kooyoomjian at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: May 17, 2001.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 01–13278 Filed 5–24–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6985–2]

Proposed CERCLA Administrative Cost Recovery Settlement; Frost Manufacturing Company Site

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement for recovery of past response costs concerning the Frost Manufacturing Company site in Kenosha, Wisconsin with the following settling parties: S.R. Smith, LLC, and Household Commercial Financial Services, Inc. The settlement requires the settling parties to pay $100,00.00 to the Hazardous Substance Superfund. The settlement includes a covenant not to sue the settling parties pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a). For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at the United States Environmental Protection Agency, Region 5 Records Center, seventh floor, 77 West Jackson Boulevard, Chicago, Illinois 60604.

DATES: Comments must be submitted on or before June 25, 2001.

ADDRESSES: The proposed settlement is available for public inspection at the United States Environmental Protection Agency, Region 5 Records Center, seventh floor, 77 West Jackson Boulevard, Chicago, Illinois 60604. A copy of the proposed settlement may be obtained from Carol Ropski, U.S. EPA Region 5, Mail Code SE–5J, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–7647. Comments should reference the Frost Manufacturing Company Site, Kenosha, Wisconsin and EPA Docket No. V–W–01–C–639 and should be addressed to Ms. Rospki at the address shown above.

FOR FURTHER INFORMATION CONTACT: Carol Ropski, U.S. EPA Region 5, Mail Code SE–5J, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–7647.

Dated: May 15, 2001

William E. Muno,

Director, Superfund Division, Region 5.

[FR Doc. 01–13275 Filed 5–24–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Approved by Office of Management and Budget

May 15, 2001.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 96–511. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Not withstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Questions concerning the OMB control numbers and expiration dates should be directed to Judy Boley, Federal Communications Commission, (202) 418–0214.

Federal Communications Commission

OMB Control No.: 3060–0809.

Expiration Date: 04/30/03.

Title: Communications Assistance for Law Enforcement Act, Report and Order and Order on Reconsideration.

Form No.: N/A.

Estimated Annual Burden: 36,000 burden hours annually, 6 hours per response; 6,000 responses.

Description: The information filed with the Commission will be used to verify telecommunications carriers' conformance with the CALEA requirements, and the information made available to law enforcement officials will be used to determine the accountability and accuracy of telecommunications carriers' compliance with lawful electronic surveillance orders.

OMB Control No.: 3060–0957.

Expiration Date: 05/31/04.

Title: Wireless Enhanced 911 Service, Fourth MO&O.

Form No.: N/A.

Estimated Annual Burden: 7,500 burden hours annually, approximately 3 hours per response; 2,500 responses.

Description: The Commission will use the information submitted by petitioners to ensure that carriers comply with critically important Phase II requirements in an orderly, timely, comprehensive fashion with no unnecessary delay.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–13243 Filed 5–24–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2486]

Petition for Clarification of Action in Rulemaking Proceeding

May 21, 2001.

Petition for Clarification has been filed in the Commission's rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of this document is available for viewing and copying in Room CY–A257, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to this petition must be filed June 11, 2001. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions have expired.

Subject: Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems (CC Docket No. 94–102).

Number of Petitions Filed: 1.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–13245 Filed 5–24–01; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1368–DR]

Illinois; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Illinois (FEMA–1368–DR), dated May 9, 2001, and related determinations.

EFFECTIVE DATE: May 9, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 9, 2001, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 USC 5121, as follows:

I have determined that the damage in certain areas of the State of Illinois, resulting from flooding beginning on April 18, 2001, and continuing is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 USC 5121 (Stafford Act). I, therefore, declare that such a major disaster exists in the State of Illinois.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and assistance for debris removal (Category A) and emergency protective measures (Category B) under Public Assistance, and Hazard Mitigation in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Robert R. Colangelo of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Illinois to have been affected adversely by this declared major disaster:

Carroll, Hancock, Henderson, Jo Daviess, Rock Island and Whiteside Counties for Individual Assistance.

Adams, Calhoun, Carroll, Hancock, Henderson, Jo Daviess, Mercer, Pike, Rock Island and Whiteside for debris removal and emergency protective measures (Categories A and B) under the Public Assistance Program.

All counties within the State of Illinois are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–13262 Filed 5–24–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1367–DR]

Iowa; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Iowa, (FEMA–1367–DR), dated May 2, 2001, and related determinations.

EFFECTIVE DATE: May 14, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Iowa is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 2, 2001:

Calhoun County for Individual and Public Assistance.

Des Moines County for (Categories A and B) under the Public Assistance program.

Louisa and Ringgold Counties for (Categories C–G) under the Public Assistance program (already designated for Categories A and B).

Humboldt, Palo Alto, Sac, and Webster Counties for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 01–13260 Filed 5–24–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1371–DR]

Maine; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Maine (FEMA–1371–DR), dated May 16, 2001, and related determinations.

EFFECTIVE DATE: May 16, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 16, 2001, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121, as follows:

I have determined that the damage in certain areas of the State of Maine, resulting

from severe winter storms and flooding on March 5–31, 2001, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121,(Stafford Act). I, therefore, declare that such a major disaster exists in the State of Maine.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance and Hazard Mitigation in the designated areas and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Marianne Jackson of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Maine to have been affected adversely by this declared major disaster:

Franklin, Oxford and York Counties for Public Assistance.

All counties within the State of Maine are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–13265 Filed 5–24–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1370–DR]

Minnesota; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Minnesota (FEMA–1370–DR), dated May 16, 2001, and related determinations.

EFFECTIVE DATE: May 16, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 16, 2001, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121, as follows:

I have determined that the damage in certain areas of the State of Minnesota, resulting from severe winter storms, flooding, and tornadoes beginning on March 23, 2001, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 (Stafford Act). I, therefore, declare that such a major disaster exists in the State of Minnesota.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance in the designated areas. You are also authorized to provide Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint James L. Roche of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Minnesota to have been affected adversely by this declared major disaster:

Benton, Chippewa, Freeborn, Goodhue, Houston, St. Louis, Stevens, Wabasha, Washington, Winona, and Yellow Medicine, and the Tribal governments of Prairie Island and Upper Sioux for Individual Assistance.

Big Stone, Carver, Chippewa, Chisago, Clay, Dakota, Freeborn, Goodhue, Grant, Houston, Lac qui Parle, McLeod, Meeker, Morrison, Norman, Polk, Ramsey, Red Lake, Redwood, Renville, St. Louis, Stevens, Swift, Todd, Traverse, Wabasha, Washington, Wilkin, Winona, and Yellow Medicine, and the Tribal governments of Prairie Island and Upper Sioux for Public Assistance.

All counties within the State of Minnesota are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–13264 Filed 5–24–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1373–DR]

Nebraska; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Nebraska (FEMA–1373–DR), dated May 16, 2001, and related determinations.

EFFECTIVE DATE: May 16, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 16, 2001, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121, as follows:

I have determined that the damage in certain areas of the State of Nebraska, resulting from severe winter storms, flooding, and tornadoes on April 10–23, 2001, is of sufficient severity and magnitude to warrant

a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 (Stafford Act). I, therefore, declare that such a major disaster exists in the State of Nebraska.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Carlos Mitchell of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Nebraska to have been affected adversely by this declared major disaster:

Banner, Blaine, Box Butte, Brown, Chase, Cherry, Cheyenne, Deuel, Gage, Garden, Hayes, Hooker, Johnson, Keith, Keya Paha, Kimball, Lincoln, Logan, McPherson, Morrill, Nuckolls, Perkins, Rock, Saline, Sioux, and Thomas counties for Public Assistance.

All counties within the State of Nebraska are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–13267 Filed 5–24–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1372–DR]

Puerto Rico; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Commonwealth of Puerto Rico, (FEMA–1372–DR), dated May 16, 2001, and related determinations.

EFFECTIVE DATE: May 17, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Commonwealth of Puerto Rico is hereby amended to include Public Assistance and the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 16, 2001:

Adjuntas, Rincon and Sabana Grande for Individual Assistance and Public Assistance.

Añasco, Hormigueros, Lares, Las Marias, Maricao and Moca for Public Assistance.

Cabo Rojo, Guáica, Guayanilla, Lajas, San German and Yauco for Public Assistance (already designated for Individual Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 01–13261 Filed 5–24–01; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1372–DR]

Puerto Rico; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Puerto Rico (FEMA–1372–DR), dated May 16, 2001, and related determinations.

EFFECTIVE DATE: May 16, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 16, 2001, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 USC 5121, as follows:

I have determined that the damage in certain areas of the Commonwealth of Puerto Rico, resulting from severe storms, flooding and mudslides beginning on May 6, 2001, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 (Stafford Act). I, therefore, declare that such a major disaster exists in the Commonwealth of Puerto Rico.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas, Hazard Mitigation throughout the Commonwealth, and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Public Assistance is later warranted, Federal funds provided under that program will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Justo Hernandez of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the Commonwealth of Puerto Rico to have been affected adversely by this declared major disaster:

The municipalities of Cabo Rojo, Lajas, Guánica, Guayanilla, San Germán, and Yauco for Individual Assistance.

All municipalities within the Commonwealth of Puerto Rico are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–13266 Filed 5–24–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1369–DR]

Wisconsin; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Wisconsin (FEMA–1369–DR), dated May 11, 2001, and related determinations.

EFFECTIVE DATE: May 11, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 11, 2001, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121, as follows:

I have determined that the damage in certain areas of the State of Wisconsin, resulting from flooding and severe storms on April 10, 2001 and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 (Stafford Act). I, therefore, declare that such a major disaster exists in the State of Wisconsin.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance, Public Assistance, and Hazard Mitigation in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Thomas P. Davies of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Wisconsin to have been affected adversely by this declared major disaster:

Buffalo, Burnett, Crawford, Douglas, Grant, La Crosse, Pepin, Pierce, St. Croix, Trempealeau, and Vernon Counties for Individual Assistance.

Ashland, Barron, Bayfield, Buffalo, Burnett, Crawford, Douglas, Grant, Iron, La Crosse, Pepin, Pierce, Polk, St. Croix, Trempealeau, Vernon, and Washburn Counties for Public Assistance.

All counties within the State of Wisconsin are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–13263 Filed 5–24–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Open Meeting, Advisory Committee (Expert Panel on Cost Estimating) for the Public Assistance Program

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463, 5 U.S.C. App.), announcement is made of the following committee meeting:

Name: Advisory Committee (Expert Panel on Cost Estimating) for the Public Assistance Program.

Date of Meeting: June 26–28, 2001.

Place: Crystal City Marriott, 1999 Jefferson Davis Highway, Salons B and C, Arlington, VA 22202.

Time: June 26: 9 a.m.–5 p.m., June 27: 8 a.m.–5 p.m., June 28: 8 a.m.–5 p.m.

Proposed Agenda: The Panel will be provided with: (1) An overview of the Stafford Act (P.L. 93–288) and the provision of the Disaster Mitigation Act of 2000 (P.L. 106–390) that directs FEMA to establish a methodology, consistent with industry practices, for estimating the cost to repair, restore or replace eligible public facilities that are damaged during a major disaster. (2) A briefing on the Grant Acceleration Program that FEMA employed during the Northridge Earthquake. (3) A briefing on the Cost Estimating Format for Large Projects that FEMA has used since the inception of the redesigned Public Assistance Program. Discussion will also be held regarding the Public Assistance Program and cost estimating issues for roads and bridges, water control facilities, buildings, utility systems, and recreational facilities. Finally, the Panel will consider current and future requirements for making recommendations on both a cost estimating methodology and reasonable floor and ceiling percentages related to the estimated cost by the first quarter of calendar year 2002.

The meeting will be open to the public, with seats available on a first-come, first-served basis. All members of the public interested in attending should contact James D. Duffer, at 202–646–3532.

Minutes of the meeting will be prepared and available for public viewing at the Federal Emergency Management Agency (FEMA), Infrastructure Division, Response and Recovery Directorate, 500 C Street, SW., Washington, DC 20472 and posted on FEMA's Web Page located at http://www.fema.gov/r-n-r/pa. Copies of the meeting minutes will be available upon request 90 days after the meeting.

Robert J. Adamcik,

Deputy Associate Director, Response & Recovery Directorate.

[FR Doc. 01–13268 Filed 5–24–01; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 12, 2001.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Raymond and Ruth Schnake, St. Peter, Illinois; to retain voting shares of St. Peter Bancshares, Inc., St. Peter, Illinois, and thereby indirectly retain voting shares of First State Bank of St. Peter, St. Peter, Illinois.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. William James Collier, Post, Texas, Thomas Curtis Darden, Linda Ann Lewis, both of Lubbock, Texas, and Jesse Lee Reese, Ralls, Texas; to acquire voting shares of Kenco Bancshares, Inc., Jayton, Texas, and thereby indirectly acquire voting shares of Kent County State Bank, Jayton, Texas.

Board of Governors of the Federal Reserve System, May 22, 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–13281 Filed 5–24–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 18, 2001.

A. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. West End Financial Corp., Bessemer, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of Gogebic Range Bank, Bessemer, Michigan, a *de novo* bank.

Board of Governors of the Federal Reserve System, May 21, 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–13179 Filed 5–24–00; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 22, 2001.

A. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303–2713:

1. Madison Bancshares, Inc., Palm Harbor, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Madison Bank, Palm Harbor, Florida.

B. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Commerce Investments I, Commerce Investments II and Commerce Investments III, all located in Oak Brook Terrace, Illinois; to become bank holding companies by acquiring 27.9 percent of the voting shares of Bancshares Holding Corp., Downers Grove, Illinois, and thereby acquire The Bank of Commerce, Downers Grove, Illinois. In connection with these applications, Bancshares Holding Corp. has applied to become a bank holding company by acquiring 100 percent of the voting shares of The Bank of Commerce, Downers Grove, Illinois.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Mason National Bank Employee Stock Ownership Plan, Mason, Texas; to become a bank holding company by acquiring 31.1 percent of the voting shares of Mason National Bancshares, Inc., Mason, Texas, and thereby indirectly acquiring Mason National Bancshares of Nevada, Carson City,

Nevada and Mason National Bank, Mason, Texas.

Board of Governors of the Federal Reserve System, May 22. 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–13280 Filed 5–24–01; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of Health and Human Services (DHHS), Office of the Secretary has submitted to the Office of Management and Budget (OMB). We are requesting an emergency review because the collection of information as described below is needed prior to expiration of the normal time limits for OMB review as established in 5 CFR 1320. Section 703 of Public Law 106–113 requires the Secretary to conduct an evaluation of State Children's Health Insurance Programs and submit the results to Congress no later than December 31, 2001. Following the normal information collection clearance procedures would cause this statutory deadline to be missed.

DHHS is requesting that OMB grant emergency approval by June 22, 2001 for a period of 180 days.

Title and Description of Information Collection

State Children's Health Insurance Program Focus Group Study—NEW—As part of evaluation of the State Children's Health Insurance Program (SCHIP), the Office of the Assistant Secretary for Planning and Evaluation is proposing the collection of qualitative data by conducting a series of 52 focus groups in nine states. The focus groups will be comprised of SCHIP program participants, SCHIP eligibles, and individuals who have disenrolled in the program. The purpose of this portion of the study is to identify factors which influence enrollment in and disenrollment from Medicaid and SCHIP. Respondents: Individuals or households.

BURDEN INFORMATION

Instrument	Number of respondents	Minutes per response	Total burden (hours)
Screen	6,240	6	624
Registration	468	5	39
Focus Group	468	150	1,170
Total	.....	.....	1,833

OMB Desk Officer: Allison Herron Eydt.

Copies of the information collection packages listed above can be obtained by calling the OS Reports Clearance Officer on (202) 690–6207. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address: Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW., Washington, DC 20503.

Comments may also be faxed to Ms. Eydt at 202–395–6974. Comments should be received by OMB by June 20, 2001.

Comments may also be sent to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue SW., Washington, DC, 20201.

Dated: May 18, 2001.

Kerry Weems,

Acting Deputy Assistant Secretary, Budget.

[FR Doc. 01–13258 Filed 5–24–01; 8:45 am]

BILLING CODE 4154–05–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Traumatic Occupational Injury Research: Science for Prevention, NORA: RFA OH–01–005

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP):Traumatic Occupational Injury Research: Science for Prevention, NORA: RFA OH–01–005.

Times and Dates: 8 a.m.–8:30 a.m., June 11, 2001. (Open) 8:30 a.m.–5 p.m., June 11, 2001. (Closed) 8 a.m.–2 p.m., June 12, 2001. (Closed)

Place: Courtyard Marriott in Buffalo/Amherst, 4100 Sheridan Drive, Buffalo, NY 14221.

Status: Portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Deputy Director for Program Management, CDC, pursuant to Public Law 92–463.

Matters to be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to Program Announcement NORA: RFA OH–01–005.

For Further Information Contact: Gwendolyn H. Cattledge, Ph.D., Office of Extramural Programs, National Institute for Occupational Safety and Health, CDC, 1600 Clifton Rd, NE, M/S D28, Atlanta, Georgia 30333, telephone 404–639–2378.

The Director, Management Analysis and Services Office has been delegated the authority to sign Federal Register notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: May 21, 2001.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–13236 Filed 5–24–01; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Extended Work Schedules in the New Economy: Health and Safety Risks to Workers; RFA OH–01–006

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Extended Work Schedules in the New Economy: Health and Safety Risks to Workers; RFA OH–01–006.

Times and Dates: 8 a.m.–8:30 a.m., June 11, 2001. (Open) 8:30 a.m.–5 a.m., June 11, 2001. (Closed) 8:30 a.m.–5 a.m., June 12, 2001. (Closed)

Place: Sheraton Station Square, 7 Station Square Drive, Pittsburgh, PA 15219

Status: Portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Deputy Director for Program Management, CDC, pursuant to Public Law 92–463.

Matters to be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to Program Announcement: RFA OH–01–006.

For Further Information Contact: Pervis C. Major, Ph.D., Scientific Review Administrator, National Institute for Occupational Safety and Health, CDC, 1095 Willowdale Road, M/S B228, Morgantown, West Virginia 26505, telephone 304–285–5979.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: May 21, 2001.

Carolyn J. Russell,

Director, Management Analysis and Service Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–13239 Filed 5–24–01; 8:45 am]

BILLING CODE 4163–19–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Immunization Practices: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting:

Name: Advisory Committee on Immunization Practices (ACIP).

Times and Dates: 8:30 a.m.–6:45 p.m., June 20, 2001.

8 a.m.–5:15 p.m., June 21, 2001.

Place: Atlanta Marriott Century Center, 2000 Century

Boulevard, N.E., Atlanta, Georgia 30345–3377.

Status: Open to the public, limited only by the space available.

Purpose: The Committee is charged with advising the Director, CDC, on the appropriate uses of immunizing agents. In addition, under 42 U.S.C. 1396s, the Committee is mandated to establish and periodically review and, as appropriate, revise the list of vaccines for administration to vaccine-eligible children through the Vaccines for Children (VFC) program, along with schedules regarding the appropriate periodicity, dosage, and contraindications applicable to the vaccines.

Matters to be Discussed: The agenda will include a discussion on vaccine safety issues for yellow fever vaccine: Is a yellow fever vaccine booster needed every 10 years; adult high-risk hepatitis B immunization; current epidemiology of HBV infection in the US; status of immunization of high risk persons in STD clinics, prisons, and non-traditional settings; update on tetanus toxoid vaccine shortage; what should be CDC's role if the influenza vaccine supply remains unclear for the 2001–2002 season; summary of the live-attenuated influenza vaccine working group meeting; vaccine safety updates: the Brighton collaboration, Institute of Medicine Report on measles, mumps and rubella vaccine and autism; update on thimerosal; update from the National Center for Infectious Diseases; update from the National Immunization Program; update from the Food and Drug Administration; update from the National Institutes of Health; update from the Vaccine Injury Compensation Program; update from the National Vaccine Program; final decision on general recommendations for immunization; discontinuation of human rabies vaccine for intradermal pre-exposure use; update on current phase III HIV vaccine efficacy trials; update on risk of meningococcal disease among microbiology laboratory workers; use of economic evaluation for setting health policy; recommended childhood immunization schedule, 2002; and should there be an immunization schedule for adult immunization.

Agenda items are subject to change as priorities dictate.

For Further Information Contact: Gloria A. Kovach, Program Analyst, Epidemiology and Surveillance Division, National Immunization Program, CDC, 1600 Clifton Road, NE, m/s E61, Atlanta, Georgia 30333. Telephone 404/639–8096.

The Director, Management Analysis and Services office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: May 21, 2001.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–13238 Filed 5–24–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting:

Name: Safety and Occupational Health Study Section (SOHSS), National Institute for Occupational Safety and Health (NIOSH).

Times and Dates: 8:30 a.m.–5:30 p.m., June 28, 2001; 8 a.m.–5 p.m., June 29, 2001.

Place: Embassy Suites, 1900 Diagonal Road, Alexandria, VA, 22314.

Status: Open 8:30 a.m.–9:30 a.m., June 28, 2001; Closed 9:30 a.m.–5:30 p.m., June 28, 2001; Closed 8 a.m.–5 p.m., June 29, 2001.

Purpose: The Safety and Occupational Health Study Section will review, discuss, and evaluate grant application(s) received in response to the Institute's standard grants review and funding cycles pertaining to research issues in occupational safety and health and allied areas.

It is the intent of NIOSH to support broad-based research endeavors in keeping with the Institute's program goals which will lead to improved understanding and appreciation for the magnitude of the aggregate health burden associated with occupational injuries and illnesses, as well as to support more focused research projects which will lead to improvements in the delivery of occupational safety and health services and the prevention of work-related injury and illness. It is anticipated that research funded will promote these program goals.

Matters to be Discussed: The meeting will convene in open session from 8:30–9:30 a.m. on June 28, 2001, to address matters related to the conduct of Study Section business. The remainder of the meeting will proceed in closed session. The purpose of the closed sessions is for the Safety and Occupational

Health Study Section to consider safety and occupational health related grant applications. These portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6) title 5 U.S.C., and the Determination of the Associate Director for Management and Operations, CDC, pursuant to Pub. L. 92–463.

Agenda items are subject to change as priorities dictate.

For Further Information Contact: Charles N. Rafferty, Ph.D., NIOSH Scientific Review Administrator, Bethesda, Maryland. Telephone (301)435–3562, E-mail *raffertc@csr.nih.gov.*

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: May 21, 2001.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–13237 Filed 5–24–01; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Statewide Automated Child Welfare Information System (SACWIS) Assessment Review GuidE (SARGE).

OMB No. 0970–0159.

Description: HHS cannot fulfill its obligation to effectively serve the nation's Adoption and Foster Care populations, nor report meaningful and reliable information to Congress about the extent of problems facing these children or the effectiveness of assistance provided to this population, without access to timely and accurate information. Currently, SACWIS systems support State efforts to meet the following Federal reporting requirements: the Adoption and Foster Care Analysis and Reporting System (AFCARS) required by section 479(b)(2) of the Social Security Act; the National Child Abuse and Neglect Data System (NCANDS); Child Abuse Prevention and Treatment Act (CAPTA); and the new Chafee Independent Living Program.

Forty-eight States and the District of Columbia have developed or have committed to develop a SACWIS system with Federal financial participation. The purpose of these reviews is to ensure that all aspects of the project, as described in the approved Advance Planning Document, have been adequately completed, and conform to applicable regulations and policies.

To initiate a review, States will submit the completed SACWIS Assessment Review GuidE (SARGE) and other documentation at the point that they have completed system development and the system is operational statewide. The additional documents submitted as part of this process should all be readily available to the State as a result of good project management.

The information collected in the SACWIS Assessment Review Guide will allow State and Federal officials to determine if the State's SACWIS system meets the requirements for title IV–E Federal financial participation defined at 45 CFR 1355.50. Additionally, other States will be able to use the documentation provided as part of this review process in their own system development efforts.

Respondents: State Title IV–E Agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Review	6	1	200	1200
Estimated Total Annual Burden Hours				1200

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: May 22, 2001.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 01–13257 Filed 5–24–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Oncologic Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Oncologic Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on June 7, 2001, 8 a.m. to 5:30 p.m.

Location: Holiday Inn, Versailles Ballroom, 8120 Wisconsin Ave., Bethesda, MD.

Contact: Karen M. Templeton-Somers, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7001, or by e-mail at SomersK@cder.fda.gov, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12542. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss single patient use of nonapproved oncology drugs and biologics. This is a continuation of the discussion started at the December 13 and 14, 2000, meeting.

Procedure: The meeting is open to the public from 8 a.m. to 1 p.m. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by May 31, 2001. Oral presentations from the public will be scheduled between approximately 8:15 a.m. and 9:15 a.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before May 31, 2001, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Background materials for this meeting will be posted at the Oncologic Drugs Advisory Committee dockets Web site at www.fda.gov/ohrms/dockets/ac/acmenu.htm. (Click on the year 2001 and scroll down to the Oncologic Drugs Advisory Committee meetings.) The slides and transcripts from the meeting will be posted at this same Web site about 3 weeks after the meeting.

Closed Committee Deliberations: The meeting will be closed from 1 p.m. to 5:30 p.m. to permit discussion and review of trade secret and/or confidential information (5 U.S.C. 552b(c)(4)).

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

FDA regrets that it was unable to publish this notice 15 days prior to the May 23, 2001, Oncologic Drugs Advisory Committee meeting. Because there agency believes there is some urgency to bring these issues to public discussion and qualified members of the Oncologic Drugs Advisory Committee were available at this time, the Commissioner of Food and Drugs concluded that it was in the public interest to hold this meeting even if there was not sufficient time for the customary 15-day public notice.

Dated: May 22, 2001.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 01–13368 Filed 5–23–01; 4:15 pm]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–0087]

Guidance for Industry on IND Meetings for Human Drugs and Biologics; Chemistry, Manufacturing, and Controls Information; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''IND Meetings for Human Drugs and Biologics; Chemistry, Manufacturing, and Controls Information.'' This guidance provides recommendations to industry on formal meetings between sponsors of investigational new drug applications (INDs) and the Center for Drug Evaluation and Research (CDER) or the Center for Biologics Evaluation and Research (CBER) on chemistry, manufacturing, and controls (CMC) information.

DATES: Submit written comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of this guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1488, FAX 1–888–CBER–FAX or 301–827–3844. Send one self-addressed adhesive label to assist the office in processing your requests. Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT:

Stephen K. Moore, Center for Drug Evaluation and Research (HFD–501), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6430;

or

Robert A. Yetter, Center for Biologics and Research (HFM–10), Food and Drug Administration, Bldg. N29B, 8800 Rockville Pike, Bethesda, MD 20892, 301–827–0373.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''IND Meetings for Human Drugs and Biologics; Chemistry, Manufacturing, and Controls Information.'' This guidance covers three kinds of meetings held at specific times between sponsors and the agency where CMC issues are discussed: (1) Pre-IND, (2) end-of-phase 2, and (3) pre-new drug application or prebiologics license application. These meetings are used to address questions and scientific issues that arise during the course of clinical investigations, aid in the resolution of problems, and facilitate evaluation of the drug. The meetings often coincide with critical points in the drug development and/or regulatory process. This guidance is intended to assist in making these meetings more efficient and effective by providing information on the: (1) Purpose, (2) meeting request, (3) information package, (4) format, and (5) focus of the meeting.

In the **Federal Register** of February 4, 2000 (65 FR 5645), FDA announced the availability of a draft version of this guidance. The February 4, 2000, guidance gave interested persons an opportunity to submit comments through May 4, 2000. All comments received during the comment period have been carefully reviewed and incorporated in this revised guidance where appropriate. As a result of the public comment, the guidance is clearer and more concise than the draft version.

This level 1 guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115; 65 FR 56468, September 19, 2000). The guidance represents the agency's current thinking on IND meetings for human drugs and biologics; chemistry, manufacturing, and controls information. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if

such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may, at any time, submit written comments on the guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at either http://www.fda.gov/cder/guidance/index.htm, http://www.fda.gov/ohrms/dockets/default.htm, or http://www.fda.gov/cber/guidelines.htm.

Dated: May 17, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–13249 Filed 5–24–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–216]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, DHHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Procedures for Advisory Opinions Concerning Physician Referrals and Supporting Regulations in 42 CFR 411.370 through 411.389; *Form No.:* HCFA–R–216 (OMB# 0938–0714); *Use:* Section 4314 of Public Law 105–33, in establishing section 1877(g)(6) of the Act, requires the Department to provide advisory opinions to the public regarding whether a physician's referrals for certain designated health services are prohibited under the other provisions in section 1877 of the Act. These regulations provide the procedures under which members of the public may request advisory opinions from HCFA. Because all requests for advisory opinions are purely voluntary, respondents will only be required to provide information to us that is relevant to their individual requests.; *Frequency:* On occasion; *Affected Public:* Not-for-profit institutions, Business or other for-profit, and Individuals and Households; *Number of Respondents:* 200; *Total Annual Responses:* 200; *Total Annual Hours:* 2,000.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at *http://www.hcfa.gov/regs/prdact95.htm,* or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to *Paperwork@hcfa.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Dawn Willinghan,HCFA–R–216, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: May 17, 2001.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 01–13207 Filed 5–24–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–224]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, DHHS. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Collection of Managed Care Data Using the Uniform Institutional Providers Form (HCFA–1450/UB–92) and Supporting Statute section 1853(a)(3) of the Balanced budget Act of 1997; *Form No.:* HCFA–R–224 (OMB No. 0938–0711); *Use:* Section 1853(a)(3) of the Balanced Budget Act (BBA) requires Medicare+Choice organizations, as well as eligible organizations with risk-sharing contracts under section 1876, to submit encounter data. Data regarding inpatient hospital services are required for periods beginning on or after July 1, 1997. These data may be collected starting January 1, 1998. Other data (as the Secretary deems necessary) may be required beginning July 1, 1998.

The BBA also requires the Secretary to implement a risk adjustment methodology that accounts for variation in per capita costs based on health status. This payment method must be implemented no later than January 1, 2000. The encounter data are necessary to implement a risk adjustment methodology.

HCFA continues to require hospital inpatient encounter data from Medicare+Choice organizations to

develop and implement a risk adjustment payment methodology as required by the Balanced Budget Act of 1997.

Frequency: Monthly; *Affected Public:* Business or other for-profit, Not-for-profit institutions, and Federal government; *Number of Respondents:* 211; *Total Annual Responses:* 1,353,500; *Total Annual Hours:* 6,533.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Dawn Willinghan, HCFA–R–224, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: May 17, 2001.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 01–13208 Filed 5–24–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of June 2001.

The National Advisory Committee on Rural Health will convene its thirty-eight meeting at the time and place specified below:

Name: National Advisory Committee on Rural Health.

Date and Time: June 3, 2001; 2 p.m.–5:15 p.m., June 4, 2001; 8:30 a.m.–7 p.m., June 5, 2001; 8:30 a.m.–12:30 p.m..

Place: Squaw Valley Lodge, 201 Squaw Peak Road, Olympic Valley, CA 96146, Phone: 1–800–922–9970.

The meeting is open to the public.

Purpose: The National Advisory Committee on Rural Health provides advice and recommendations to the Secretary with respect to the delivery, research, development, and administration of health care services in rural areas.

Agenda: Sunday afternoon, June 3, at 2 p.m. the acting chairperson, Tom Nesbitt will open the meeting and welcome the Committee members. The first plenary session will be a presentation on a public health proposal by two of the members. This will be followed by a discussion on the Committee's 2001 project, ''A Targeted Look at the Rural Safety Net.'' At 3:45 p.m. the presentations will include discussions on ''Maintaining the Rural Health Care Delivery System Safety Net.''

Monday morning at 8:30 a.m., the Committee will prepare for site visits. From 9 a.m. to 7 p.m. the Committee will make site visits to the Placer County Medical and Public Health Clinic, the Eastern Plumas District Hospital and the Plumas District Hospital. Transportation to the sites will not be provided to the general public.

The final plenary session will be convened on Tuesday, June 5. Beginning at 8:30 a.m. there will be a brief review of the site visits, a review of the public health proposal presented on Sunday and state presentations from California and Nevada on ''Federal Safety Issues in Rural Areas.'' The meeting will conclude with a discussion on the Committee's Report, future activities and the next meeting. The meeting will be adjourned at 12:30 p.m.

Anyone requiring information regarding the subject Committee should contact Marcia K. Brand, Ph.D., Executive Secretary, National Advisory Committee on Rural Health, Health Resources and Services Administration, Room 9A–55, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, telephone (301) 443–0835, Fax (301) 443–2803.

Persons interested in attending any portion of the meeting should contact Michele Pray, Office of Rural Health Policy (ORHP), (301) 443–0835. The National Advisory Committee meeting agenda will be posted on ORHP's Web site, http://www.ruralhealth.hrsa.gov.

Dated: May 21, 2001.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 01–13250 Filed 5–24–01; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: July 19, 2001.

Time: 4 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: 6100 Executive Blvd., Room 5E01, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Robert H. Stretch, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health, and Human Development, NIH, 6100 Executive Blvd., Room 5E01, MSC 7510, Bethesda, MD 20892, (301) 435–6912.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: May 18, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–13192 Filed 5–24–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group, Mental Retardation Research Subcommittee, Mental Retardation Subcommittee Meeting.

Date: June 14–15, 2001.

Time: 8 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Phoenix Park Hotel, 520 N. Capital Street, NW., Washington, DC 20001.

Contact Person: Norman Chang, Scientific Review Administrator, National Institute of Child Health and Human Development, National Institutes of Health, PHS, DHHS, Bethesda, MD 20892.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 98.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institute of Health, HHS)

Dated: May 18, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–13194 Filed 5–24–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institutes of Child Health and Human Development Initial Review Group, Medical Rehabilitation Research Subcommittee.

Date: June 18, 2001.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Pooks Hill, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Anne Krey, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Executive Blvd., Rm. 5E03, Bethesda, MD 20892, 301–435–6908.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: May 18, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–13195 Filed 5–24–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, ''Web Site-Based Training in Drug Prevention''.

Date: May 24, 2001.

Time: 9:30 am to 12 pm.

Agenda: To review and evaluate contract proposals.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1439.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, ''Administrative Support Center for the NIDA Clinical Trials Network.

Date: June 6, 2001.

Time: 9 am to 11 am.

Agenda: To review and evaluate contract proposals.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Eric Zatman, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1438.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, ''Pharmacy and Clinical Support for the NIDA Clinical Trials Network''.

Date: June 6, 2001.

Time: 11 am to 4 pm.

Agenda: To review and evaluate contract proposals.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Eric Zatman, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1438.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, ''Research Subject Recruitment, Screening, Evaluation, Discharge and Follow-up Services''.

Date: June 20, 2001.

Time: 9:30 am to 4 pm.

Agenda: To review and evaluate contract proposals.

Place: Hilton Towers Hotel, 20 West Baltimore Street, Baltimore, MD.

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1439.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: May 18, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–13196 Filed 5–24–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 01–63, Review of K08 Grants.

Date: May 21, 2001.

Time: 11 am to 1 pm.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room C, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Yujing Liu, MD, PhD, Scientific Review Administrator, National Institute of Dental & Craniofacial Res., 45 Center Drive, Natcher Building, Rm. 4AN44F, Bethesda, MD 20892, (301) 594–2372.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: May 18, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–13197 Filed 5–24–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: June 14, 2001.

Time: 1 pm to 5 pm.

Agenda: To review and evaluate contract proposals.

Place: 6700–B Rockledge Drive, Room 2103, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Anna L. Ramsey-Ewing, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2220, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301–496–2550.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856; Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 18, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–13198 Filed 5–24–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB 5 O2.

Date: June 6, 2001.

Time: 2 pm to 3 pm.

Agenda: To review and evaluate grant applications.

Place: 6707 Democracy Blvd, 2 Democracy Plaza, Rm 653, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Francisco O. Calvo, Chief, Review Branch, DES NIDDK, Room 752, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MC 20892–6600, (301) 594–8897.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: May 18, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–13199 Filed 5–24–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: June 13, 2001.

Time: 1:30 pm to 5 pm.

Agenda: To review and evaluate contract proposals.

Place: 6700 B Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Anthony Macaluso, Scientific Review Administrator, NIAID/DEA, Scientific Review Program, Room 2217, 6700B Rockledge Drive, MSC–7616, Bethesda, MD 20892–7616, 301–496–7465, *amacauso@niaid.nih.gov*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 18, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–13200 Filed 5–24–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes on Aging; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute on Aging Special Emphasis Panel, June 13, 2001, 2 p.m. to June 13, 2001, 4:30 pm, 7201 Wisconsin Avenue, Bethesda, MD 20892 which was published in the **Federal Register** on April 23, 2001, 66 FR 20474.

The meeting will be held on May 29, 2001. The meeting is closed to the public.

Dated: May 18, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–13201 Filed 5–24–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel.

Date: June 29, 2001.

Time: 1 pm to 3:30 pm.

Agenda: To review and evaluate contract proposals.

Place: 6120 Executive Blvd., Suite 400C, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Stanley C. Oaks, Jr., Scientific Review Branch, Division of Extramural Research, Executive Plaza South, room 400C, 6120 Executive Blvd., Bethesda, MD 20892–7180, 301–496–8683.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: May 18, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–13202 Filed 5–24–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Deafness and Other Communications Disorders Special Emphasis Panel.

Date: June 27, 2001.

Time: 1 pm to 2 pm.

Agenda: To review and evaluate grant applications.

Place: 6120 Executive Blvd, Suite 400C, Bethesda, MD 20852.

Contact Person: Stanely C. Oaks, Jr., Scientific Review Branch, Division of Extramural Research, Executive Plaza South, Room 400C, 6120 Executive Blvd., Bethesda, MD 20892–7180, 301–496–8683.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: May 18, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–13203 Filed 5–24–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Acquired Immunodeficiency Syndrome Research Review Committee.

Date: June 14–15, 2001.

Open: June 14, 2001, 8:30 am to 9 am.

Agenda: Reports from various institute staff.

Place: The Virginian Suites, 1500 Arlington Boulevard, Arlington, VA 22209.

Closed: June 14, 2001, 9 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: The Virginian Suites, 1500 Arlington Boulevard, Arlington, VA 22209.

Open: June 15, 2001, 8:30 am to 9 am.

Agenda: Reports from various institute staff.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 18, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–13204 Filed 5–24–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Biomedical Library Review Committee, June 14, 2001, 8:30 am to June 15, 2001, 5 pm, National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD, 20894 which was published in the **Federal Register** on April 12, 2001, 66 FR 18962.

On June 15, 2001 the meeting will be open to the public from 8:30 to 9 a.m. and closed from 9 a.m. to adjournment. The meeting is partially closed to the public.

Dated: May 18, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–13193 Filed 5–24–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4644–N–21]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: May 24, 2001.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: May 17, 2001.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

[FR Doc. 01–12841 Filed 5–24–01; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Office of Wildland Fire Coordination

[FA 108 2810 HT 001R]

Notice of Meeting, Joint Fire Science Program Stakeholder Advisory Group

AGENCY: Office of Wildland Fire Coordination, Interior.

ACTION: Notice of meeting.

SUMMARY: The Joint Fire Science Program Stakeholder Advisory Group will have its initial meeting to assess past and current research and to identify priorities for future research. The meeting is open to the public.

DATES: The meeting will convene on Tuesday, June 19, 2001 at 8 a.m. and continue until 4:30 p.m. The meeting will resume Wednesday, June 20, from 8 a.m. to 3 p.m. Written material and requests to make oral presentations should reach the Department of the Interior, at the address below, on or before June 9, 2001.

ADDRESSES: The meeting will be held at the Best Western Salt Lake Plaza Hotel, 122 West South Temple, Room Heritage ½, Salt Lake City, Utah 84101; telephone: (801) 521–0130.

Written material and requests to make oral presentations should be sent to Tim Hartzell, Office of Wildland Fire Coordination, MS–2241–MIB, Department of the Interior, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Tim Hartzell, Designated Federal Official; telephone (202) 606–3211; fax: (202) 606–3150; email: *Tim_Hartzell@blm.gov.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2. Additional information about the Joint Fire Science Program Stakeholder Advisory Group, including any revised agenda for the June 19 and 20 meeting that occurs after this **Federal Register** notice is published, may be found on the World Wide Web at *http://www.nifc.gov/joint_fire__sci/SHAG/facaind.htm.*

Draft Agenda of the June 19 and 20 Meeting

A. Welcome to Salt Lake City Meeting
   1. Designated Federal Official
   2. Chair, Joint Fire Science Program Governing Board
B. Introduction of Members
C. Review Stakeholder Advisory Group Charter, FACA Rules and Procedures
D. Review Previous and on-Going Joint Fire Science Program Work
E. Establish Short- and Long-Term Research Priority Recommendations for Governing Board
F. Public Input (Time will be reserved, before lunch and at the close of each daily session, to receive public comment. Individual presentations will be limited to 5 minutes).

This meeting is open to the public. At the discretion of the Designated Federal Official, members of the public may make oral presentations during the meeting. Persons wishing to make oral presentations should notify Tim Hartzell no later than June 9, 2001. If a person submitting material would like a copy distributed to each member of the committee in advance of the meeting, that person should submit 32 copies to Tim Hartzell no later than June 9, 2001.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities, or to request special assistance at the meeting, contact Tim Hartzell.

Dated: May 21, 2001.

Tim C. Hartzell,

Director, Office of Wildland Fire Coordination.

[FR Doc. 01–13220 Filed 5–24–01; 8:45 am]

BILLING CODE 4310–DW–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Environmental Statements; Notice of Intent: Mackay Island and Currituck National Wildlife Refuges, NC; Public Scoping Meetings

ACTION: Notice of intent to conduct public scoping meetings to obtain suggestions and information on issues to include in the preparation of Comprehensive Conservation Plans for Mackay Island and Currituck National Wildlife Refuges in North Carolina.

SUMMARY: This notice advises the public that the Fish and Wildlife Service, Southeast Region, intends to gather information necessary to prepare

comprehensive conservation plans and associated environmental documents pursuant to the Service's Comprehensive Conservation Planning Policy and the National Environmental Policy Act and implementing regulations.

The meetings are scheduled as follows:

Tuesday, June 19, 2001, 6 p.m.–9 p.m., Currituck County Commissioners; Meeting Room, Old County Courthouse, Second Floor, 105 Courthouse Road, Currituck, NC 27929.

Thursday, June 21, 2001, 6 p.m.–9 p.m., Corolla Fire Station, 827 Whalehead Drive, Corolla, NC 27927.

Tuesday, June 26, 2001, 6 p.m.–9 p.m., Creeds Elementary School, 920 Princess Anne Road, Virginia Beach, VA 23457.

Thursday, June 28, 2001, 6 p.m.–9 p.m., Knotts Island Ruritan Building, 126 Brumley Road, Knotts Island, NC 27950.

DATES: Written comments should be received on or before June 25, 2001.

ADDRESSES: Address comments and requests for more information to the following: D.A. Brown, M.S., P.W.S., 1106 West Queen Street, P.O. Box 329, Edenton, North Carolina 27932, (252) 482–2364.

Information concerning these refuges may be found at the following website: http://rtncf-rci.ral.r4.fws.gov

If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to the above address. You may also comment via the Internet to the following address: D_A_Brown@fws.gov. Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact D.A. Brown directly at the above address. Finally, you may hand-deliver comments to Mr. Brown at 1106 West Queen Street, Edenton, North Carolina. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address form the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

SUPPLEMENTARY INFORMATION: It is the policy of the Fish and Wildlife Service to have all lands within the National Wildlife Refuge System managed in accordance with an approved Comprehensive Conservation Plan. The plan guides management decisions and identifies the goals, objectives, and strategies for achieving refuge purposes. Public input into this planning process is encouraged. The plan will provide other agencies and the public with a clear understanding of the desired conditions of the refuge and how the Service will implement management strategies.

Mackay Island National Wildlife Refuge was established in 1961, as a wintering area for greater snow geese and feeding habitat for other migratory birds—primarily waterfowl.

Currituck National Wildlife Refuge, administered by Mackay Island Refuge, was established in 1983, to preserve and protect a portion of the North Carolina Outer Banks, one of the largest undeveloped coastal barrier ecosystems remaining on the east coast. The Service's ownership ensures perpetuation of basic wetland functions, including nutrient cycling, floodplain and erosion control, and assists in preserving the role of Currituck Sound estuaries as nurseries. The ground is an important black duck wintering area.

Dated: May 11, 2001.

Judy L. Pulliam,

Acting Regional Director.

[FR Doc. 01–13240 Filed 5–24–01; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

ACTION: Notice of receipt of applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*). These take permits are for research and recovery purposes.

Permit No. TE–041875–0

Applicant: John L. Koprowski, Tucson, Arizona.

Applicant requests a permit to capture, ear-tag, and release Mt. Graham red squirrels (*Tamiasciurus hudsonicus grahamensis*) for a population ecology study within Arizona.

Permit No. TE–041877–0

Applicant: Southland Consulting Services, L.L.C., Clinton, Louisiana.

Applicant requests a permit to conduct presence/absence surveys for interior least tern (*Sterna antillarum athalassos*) in Oklahoma and Texas.

Permit No. TE–042679–0

Applicant: Charles A. Bergman, Tacoma Washington.

Applicant requests a permit to photograph a southwestern willow flycatcher (*Empidonax traillii extimus*) at a nest site in Arizona as part of an education book concerning endangered species.

Permit No. TE–042663–0

Applicant: Kathleen E. Conway, Grand Junction, Colorado.

Applicant requests a permit to conduct presence/absence surveys for southwestern willow flycatcher (*Empidonax traillii extimus*) within Colorado.

Permit No. TE–041874–0

Applicant: WestWater Engineering, Grand Junction, Colorado.

Applicant requests a permit to conduct presence/absence surveys for southwestern willow flycatcher (*Empidonax traillii extimus*) within Colorado.

Permit No. TE–041869–0

Applicant: The Louis Berger Group, Inc., Santa Fe, New Mexico.

Applicant requests a permit to conduct presence/absence surveys for southwestern willow flycatcher (*Empidonax traillii extimus*) within Arizona, New Mexico, Colorado, California, and Nevada.

Permit No. TE–042659–0

Applicant: Marty R. Stratman, Gunnison, Colorado.

Applicant requests a permit to conduct presence/absence surveys for southwestern willow flycatcher (*Empidonax traillii extimus*) within Colorado.

Permit No. TE–041873–0

Applicant: Lynn Cudlip, Gunnison, Colorado.

Applicant requests a permit to conduct presence/absence surveys for southwestern willow flycatcher (*Empidonax traillii extimus*) within Colorado.

Permit No. TE–041868–0

Applicant: Kevin L. Hamann, Edgewood, New Mexico.

Applicant requests a permit to conduct presence/absence surveys for southwestern willow flycatcher (*Empidonax traillii extimus*) within Arizona, New Mexico, and Colorado.

Permit No. TE–042958–0

Applicant: Dwight Chapman, dba, Southwest Research, Boulder, Colorado.

Applicant requests a permit to conduct presence/absence surveys for southwestern willow flycatcher (*Empidonax traillii extimus*) within Utah.

Permit No. TE–043060–0

Applicant: ERO Resources Corporation, Denver, Colorado.

Applicant requests a permit to conduct presence/absence surveys for southwestern willow flycatcher (*Empidonax traillii extimus*) within Colorado.

Permit No. TE–042955–0

Applicant: Greystone Environmental Consultants, Inc., Greenwood Village, Colorado.

Applicant requests a permit to conduct presence/absence surveys for southwestern willow flycatcher (*Empidonax traillii extimus*), Yuma clapper rail (*Rallus longirostris yumanensis*), and cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*) within Arizona.

Permit No. TE–023159–1

Applicant: SORA (Southwestern Ornithological Research & Adventures), Albuquerque, New Mexico.

Applicant requests a permit to conduct presence/absence surveys for the northern aplomado falcon (*Falco femoralis septentrionalis*) within New Mexico.

Permit No. TE–042662–0

Applicant: Charles Rex Wahl, Tucson, Arizona.

Applicant requests a permit conduct presence/absence surveys for the following species: Brown pelican (*Pelicanus occidentalis*), Yuma clapper rail (*Rallus longirostris yumanensis*), black-capped vireo (*Vireo atricapillus*), golden-cheeked warbler (*Dendroica chrysoparia*), piping plover (*Charadrius melodus*), cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*), Mexican spotted owl (*Strix occidentalis lucida*) and southwestern willow flycatcher (*Empidonax traillii extimus*) within Texas, Arizona, and New Mexico.

Permit No. TE–041879–0

Applicant: Michele S. Johnson, Houston, Texas.

Applicant requests a permit to capture and rehabilitate the brown pelican (*Pelicanus occidentalis*) and piping plover (*Charadrius melodus*) in case of an oil spill or if orphaned or injured within Texas.

Permit No. TE–042951–0

Applicant: Gila River Indian Community, Department of Land and Water, Sacaton, Arizona.

Applicant requests a permit to propagate bonytail chub (*Gila elegans*) for restocking into the Colorado River at Lake Havasu, Arizona.

Permit No. TE–042961–0

Applicant: Marlis R. Douglas, Fort Collins, Colorado.

Applicant requests a permit to capture, tag, take fin clippings for genetic analyses of bonytail chub (*Gila elegans*) within Arizona.

Permit No. TE–028649–0

Applicant: Chris Thibodaux, Wimberley, Texas.

Applicant requests a permit to conduct presence/absence surveys for the following karst invertebrates species in Bexar County, Texas: Helotes mold beetle (*Batrisodes venyivi*), Robber Baron Cave harvestman (*Texella cokendolpheri*), Robber Baron Cave spider (*Cicurina baronia*), Madla's cave spider (*Cicurina madla*), vesper cave spider (*Cincurina vespera*), Government Canyon cave spider (*Neoleptoneta microps*), as well as another cave spider (*Cicurina venii*) and two cave beetles (*Rhadine exilis* and *Rhadine infernalis*) that do not have common names. These activities will be conducted within Texas.

Permit No. TE–041876–0

Applicant: Loreen Allphin Woolstenhulme, Provo, Utah.

Applicant requests a permit to collect plant parts, fruits, and seeds from the Sentry milk-vetch (*Astragalus cremnophalax* var. *cremnophalax*) within Arizona.

Permit No. TE–042662–0

Applicant: Gena K. Janssen, Austin, Texas.

Applicant requests a permit to collect fruits and seeds from the following plant species: Zapata bladderpod (*Lesquerella thamnophila*), Texas Ayenia (*Ayenia limitaris*), Walker's manioc (*Manihot walkerae*), and Johnston's frankenia (*Frankenia johnstonii*) within Texas.

DATES: Written comments on these permit applications must be received on or before June 25, 2001.

ADDRESS: Written data or comments should be submitted to the Chief, Endangered Species Division, Ecological Services, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103; (505) 248–6649; Fax (505) 248–6788. Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) at the U.S. Fish and Wildlife Service, Albuquerque, New Mexico. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Chief, Endangered Species Division, Albuquerque, New Mexico, at the above address. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice, to the address above.

Stephen C. Helfert,

Assistant Regional Director, Ecological Services, Region 2, Albuquerque, New Mexico.

[FR Doc. 01–13241 Filed 5–24–01; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Draft General Management Plan/ Environmental Impact Statement (GMP/EIS), Crater Lake National Park, Oregon

AGENCY: National Park Service.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: Under the provisions of the National Environmental Policy Act, the National Park Service is preparing an environmental impact statement for the general management plan for Crater Lake National park.

The plan is needed to guide the protection and preservation of the natural and cultural environments, considering a variety of interpretive and recreational visitor experiences that

enhance the enjoyment and understanding of the park resources.

The effort will result in a comprehensive general management plan that encompasses preservation of natural and cultural resources, visitor use and interpretation, roads, and facilities. In cooperation with local and national interests, attention will also be given to resources and resource issues shared by the park and its neighbors that affect the integrity of park resources.

Alternatives to be considered include ''no action'' and alternatives addressing issues identified.

Major issues include management of resources across jurisdictional boundaries, levels and appropriateness of access to resources within the park, accommodation of winter lake-viewing, and the adequacy of existing facilities to accommodate modern demands including administration and support functions.

Scoping is the term given to the process by which the scope of issues to be addressed in the GMP/EIS is identified. Representatives of Federal, State and local agencies, American Indian tribes, private organizations and individuals from the general public who may be interested in or affected by the proposed GMP/EIS are invited to participate in the scoping process by responding to this Notice with written comments.

All comments received will become part of the public record and copies of comments, including any names and home addresses of respondents, may be released for public inspection. Individual respondents may request that their home addresses be withheld from the public record, which will be honored to the extent allowable by law. Requests to withhold names and/or addresses must be stated prominently at the beginning of the comments. Anonymous comments will not be considered. Submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Because the responsibility for approving the GMP/EIS has been delegated to the National Park Service, the EIS is a ''delegated'' EIS. The responsible official is John J. Reynolds, Regional Director, Pacific West Region, National Park Service.

DATES: To ensure that all significant issues pertaining to the plan are identified, scoping comments will be accepted at the following locations until June 30, 2001.

ADDRESSES: A scoping brochure has been prepared, that details the issues identified to date. Copies of that and other information regarding the General Management Plan and Environmental Impact Statement can be obtained from the Superintendent, Crater Lake National Park, P.O. Box 7, Hwy 62, Crater Lake, OR 97604, telephone (541) 594–2211. Information is also available at *ww.nps.gov/planning/crla.* Written comments may also be sent to *CRLA_GMP@nps.gov.* Written comments on the scope of the issues and alternatives to be analyzed in the GMP/EIS should be received no later than May 31, 2001.

FOR FURTHER INFORMATION CONTACT: Superintendent, Crater Lake National Park, at (541) 594–2211.

Dated: May 1, 2001.

Charles V. Lundy,

Superintendent, Crater Lake National Park.

[FR Doc. 01–13229 Filed 5–24–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement-Production of Ten Satellite/Internet Video Programs

AGENCY: National Institute of Corrections, Department of Justice.

ACTION: Solicitation for a Cooperative Agreement.

SUMMARY: The Department of Justice (DOJ), National Institute of Corrections (NIC), announces the availability of funds in FY 2002 for a cooperative agreement to fund the production of ten Satellite/Internet video programs. Five of the proposed programs are separate, individual, nationwide satellite/Internet teleconferences (three hours each). The other five are distance learning courses delivered via a satellite/Internet. Three of the five distance learning programs are site coordinator/facilitator training sessions (Training for Trainers). A site coordinator precursor module will contain eight hours of satellite/internet training split over two days. The remaining two are content-driven training programs which will consist of 32 hours of training. We will have 16 hours of live-broadcast satellite/Internet training over four days, (four hours each day). The other 16 hours of off-air activities will be directed by our trained site coordinators. (Note: one of the eight-hour training programs for site coordinators will take place in FY02, and the main program will be delivered in FY03). There will be a total of 71 hours of broadcast time in FY 02.

Background

Distance learning is defined as a training/education process transpiring between trainers/teachers at one location and participants/students at other locations via technology. NIC is using the satellite broadcasting and the Internet to economically reach more correctional staff in federal, states and local agencies. Another strong benefit of satellite delivery is its ability to broadcast programs conducted by experts in the correctional field. The entire audience can be reached at the same time with exactly the same information. Everyone will be reading from the same page. In addition, NIC is creating training programs from its edited 32 hours programs that will be disseminated through its Information Center.

Purpose: The purposes of funding this initiative are:

(1) Produce five three-hour satellite/Internet videoconferences, disseminating current information to the criminal justice community:

(2) Produce three eight-hour training sessions for site coordinators/facilitators. This is designed to train the facilitators from each registered site concerning the outcomes expected and in the knowledge and skills to facilitate the off-air activities;

(3) Produce two 16-hour sessions of distance learning training that responds directly to the needs identified by practitioners working in the criminal justice arena. The satellite training will be delivered four hours each day, Monday through Thursday.

Scope of Work: To address the scope of work for this project, the following will be needed:

1. Producer Consultation and Creative Services

The producer will: (a) consult and collaborate on program design, program coordination, design of field segments and content development with NIC's Distance Learning Manager; (b) work with each individual consultant and develop their modules for delivery using the distance learning format and/or the teleconference format; (c) help develop scripts, graphic design, production elements and rehearsal for each module of the site coordinations' training and the distance learning training; (d) use their expertise in designing creative ways to deliver satellite teleconferencing. The producer will also be responsible for attending planning meetings and assisting in the

video- taping of testimonials at conferences.

2. Pre-Production

Video

The producer will supervise the production of vignettes to be used in each of the three-hour videoconferences, as well as the distance learning training. NIC presenters (content experts) will draft outlines of the scripts for each vignette. From the outlines, scripts will be developed by the producer (script writing expert) and approved by NIC's Distance Learning Manager. Professional actors will play the parts designated by the script. Story boards for each production will be written by NIC's Distance Learning Manager.

Producer will supervise camera and audio crews to capture testimonials from leaders in the correction field at designated correctional conferences. The producer will coordinate all planning of the production and post production for each of the ten teleconference

Video Production

Video production for each teleconference will consist of video taping content related events in the field, editing existing video and video taping experts for testimonial presentations. It will also include voice over, audio and music for each video, if necessary. Blank tapes and narration for field shooting will be purchased for each site. The format for all field shooting will be either Beta Cam or DV Pro Digital.

Post Production (Studio)

Innovated and thought provoking opening sequences will be produced for each teleconference. In addition graphics will be utilized to enhance the learning in each module. The producer will coordinate art direction, lighting, and set design and furniture for all teleconference segments. (Set design should change periodically throughout the award period). The producer will organize and supervise the complete production crew for rehearsal and production days. (See schedules below).

3. Production

The production group will set up and maintain studio lighting, adjust audio, and have a complete production crew for the following days and hours. A production crew will include Director, Audio Operator, Video Operator, Character Generator Operator, Floor Director, Camera Operators (3 to 4), Teleprompter Operator, On Line Internet Coordinator, Make-Up Artist (production time only), and Interactive Assistance Personal (fax, email, and telephone.)

Site Coordinators Training-Restorative Justice

Rehearsal—November 6, 2001—8 hours
Production On-Air, November 7, 2001—5 hours
Rehearsal ½ day, November 7, 2001—4 hours
Production On-Air, November 8, 2001—5 hours

Staff Sexual Misconduct

Rehearsal—December 11, 2001—8 hours
Production On-Air, December 12, 2001—4 hours

Restorative Justice—32 Hour Distance Learning

Rehearsal—January 26, 2002—8 hours
Production On-Air, & Rehearsal—January 27, 2002—9 hours
Production On-Air, & Rehearsal—January 28, 2002—9 hours
Production On-Air, & Rehearsal—January 29, 2002—9 hours
Production On-Air—January 30, 2002—5 hours

Mentally Ill Inmates in Jails: Meeting the Challenge

Rehearsal—April 16, 2002—8 hours
Production on-Air—April 17, 2002—4 hours

Site Coordination/Facilitator Training—Thinking for a Change

Rehearsal—May 14, 2002—8 hours
Production On-Air Rehearsal—May 15, 2002—9 hours
Production On-Air—May 16, 2002—5 hours

Recruitment & Retention

Rehearsal—June 4, 2002— 8 hours
Production On-Air—June 5, 2002—4 hours

Site Coordination/Facilitator Training-Job Retention

Rehearsal—June 18, 2002—8 hours
Production On-Air & Rehearsal—June 19, 2002—9 hours
Production On-Air—June 20, 2002—5 hours

Health Care for Mentally Ill Offenders in the Community

Rehearsal—July 16, 2001—8 hours
Production On-Air—July 17, 2002—4 hours

Mental Health in Prisons

Rehearsal—August 27, 2002—8 hours
Production On-Air-August 28, 2002—4 hours

Thinking for a Change—32 Hour Distance Learning

Rehearsal—September 14, 2002—8 hours
Production On-Air & Rehearsal—September 15, 2002—9 hours
Production On-Air & Rehearsal—September 16, 2002—9 hours
Production On-Air & Rehearsal—September 17, 2002—9 hours
Production On-Air—September 18, 2002—5 hours

4. Transmission

- Purchase satellite uplink time that will include the footprints of Alaska, Hawaii, Virgin Islands, and the Continental United States;
- Acquire downlink transponder time for KU-Band;
- Purchase Internet streaming of 200 simultaneous feeds for each program.

5. Equipment

Applicants must have a minimum of the following equipment and qualified personnel.

- Broadcast Studio of approximately 2,000 square feet, with an area for a studio audience of between 15 and 20 people.
- Four-Digital Studio Cameras (One of which could be an overhead camera with robotic control)
- Chroma Key—At least one wall with chroma key capability along with the digital ultimate keying system
- A tape operation facility providing playback/record in various formats, including DV, Betacam, Betacam SP, SVHS, VHS, U-Matic ¾ & SP.
- A/B roll linear and digital nonlinear editing
- Three- dimensional animation with computer graphics.
- Internet streaming capacity for several hundred simultaneous downloads in both G2 Real Player and Microsoft Media Player
- Computer Teleprompter for at least two studio cameras
- Satellite Uplink and Transponder-KU-Band and/or Digital with KU-Band to cover the footprints of Alaska, Hawaii, Virgin Islands, and the Continental United States
- Portable Field Equipment-Digital Video Cameras with recording decks, portable lighting kits, microphones (hand held and lapel), field monitors, audio mixers, and camera tripods.

6. Personnel

- Producer/Director
- Script Writer
- Set Designer
- Lighting Designer
- Audio Operator
- Graphics Operator

- Floor Manager
- Studio Camera Operators (3 to 4)
- Tape Operator
- Location Camera Operator
- Teleprompter Operator
- Clerical/Administrator Support
- Makeup Artist

Application Requirement: Applicants must prepare a proposal that describes their plan to address the requirements to produce ten live Internet/Satellite teleconferences. The plan must include a list of all required equipment, identify their key operational staff and the relevant expertise of each, and address the manner in which they would perform all tasks in collaboration with NIC's District Learning Supervisor. Please note that the Standard Form 424, Application for Federal Assistance, submitted with the proposal must contain the cover sheet, budget, budget narrative, assurances, certificates, and management plan. All required forms and instructions for their completion may be downloaded from the NIC website:*http://www.nicic.org.*

Authority: Public Law 93–415.

Amount of Award: This is a cooperative agreement. A cooperative agreement is a form of assistance relationship through which the National Institute of Corrections is involved during the performance of the award. This award is made to an organization who has the capability to produce live satellite/Internet teleconferences. This initiative emphasizes television quality production that meets or exceeds major network quality. The award will be limited to $350,000 for both direct and indirect costs related to this project. Funds may not be used to purchase equipment, construction, or to acquire or build real property. This project will be a collaborative venture with the NIC Academy.

All products from this funding will be in the public domain and available to interested agencies through the National Institute of Corrections.

Availability of Funds: Funds are not presently available for this cooperative agreement. The Government's obligation under this cooperative agreement is contingent upon the availability of appropriated funds from which payment for cooperative agreement purposes can be made. No legal liability on the part of the government for any payment may arise until funds are made available for this cooperative agreement and until the awardee receives notice of such availability, to be confirmed in writing.

Deadline for Receipt of Applications: Applications must be received by 4:00 pm on Friday, June 29, 2001. They should be addressed to: Director, National Institute of Corrections, 320 First Street, NW, Room 5007, Washington, DC 20534. Hand delivered applications can be brought to 500 First Street, NW, Washington, DC 20534. The security desk will call Bobbi Tinsley at (202) 307–3106, and 0 for pickup. This award period is from October 1, 2001 to September 30, 2002.

ADDRESSES AND FURTHER INFORMATION: Applications must include completed forms identified above. They are available on NIC's web page at *www.nicic.org.* Click on ''cooperative agreements.'' Any specific questions regarding the application process should be directed to Judy Evens, Cooperative Agreement Control Office, National Institute of Corrections, 320 First Street NW, Room 5007, Washington, DC 20534, or by calling 800–995–6423 ext. 4–4222, or email *jevens@bop.gov*

All technical and/or programmatic questions concerning this announcement should be directed to Ed Wolahan, Corrections Program Specialist, at 1960 Industrial Circle, Longmont, Colorado 80501, or by calling 800–995–6429 ext 131, or by *email:ewolahan@bop.gov.*

Eligible Applicants: An eligible applicant is any state or general unit of local government, public or private agency, educational institution, organization, team or individual with the requisite skills to successfully meet the objectives of the project.

Review Considerations: Applications received under this announcement will be subjected to an NIC 3 to 5 member review panel.

Number of Awards: One (1).

Executive Order 12372: This program is not subject to the provisions of Executive Order 12372.

NIC Application Number: 02A13. This number should appear as a reference line in your cover letter and also in box 11 of Standard Form 424.

Catalog of Federal Domestic Assistance Number: 16,601.

May 22, 2001.

Morris Thigpen,

Director, National Institute of Corrections.

[FR Doc. 01–13297 Filed 5–24–01; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget (OMB)

May 18, 2001.

The Department of Labor has submitted the following (see below) emergency processing public information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). OMB approval has been requested by June 8, 2001. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation, contact Darrin King at (202) 693–4129 or email *king-darrin@dol.gov.*

Comments and questions about the ICR listed below should be forwarded to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment and Training Administration, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316.

The Office of Management and Budget is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of response.

Agency: Employment and Training Administration (ETA).

Title: Re-employment Services Plan Narrative and Progress Report.

OMB Number: 1205–ONEW.

Form	Number of respondents	Responses per year	Total responses	Hours per response	Total burden hours
Annual Plan	54	1	54	40	2,160
Progress Report	54	1	54	16	864
Totals		2	108		3,024

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $0.

Description: ETA seeks approval of an annual plan narrative and one annual progress report as requirements for re-employment services allotments. In Program Year 2001 budget for Wagner-Peyser Act, State Employment Service Agencies (SESA) were allocated additional funds for re-employment services to Unemployment Insurance (UI) claimants. The annual plan and progress report will provide necessary information to assist the Secretary in determining if the proposed SESA re-employment services are acceptable and whether or not the purpose of the funds was achieved. Specific reporting is necessary to adequately track this activity separately from regular operations and record keeping. While this collection sets up new requirements, SESA staff can existing frameworks and systems to prepare the plan and collect any new information.

Ira Mills,

Departmental Clearance Officer.

[FR Doc. 01–13177 Filed 5–24–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

May 18, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King at (202) 693–4129 or E-Mail King-Darrin@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Employment and Training Administration (ETA).

Title: Benefit Rights and Experience Report.

OMB Number: 1205–0177.

Affected Public: State, Local, or Tribal Government.

Frequency: Quarterly.

Number of Respondents: 53.

Number of Annual Responses: 216.

Estimated Time Per Response: 30 minutes.

Total Burden Hours: 108.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The ETA Form 218 provides information used in solvency studies, in budgeting projections and for evaluation of adequacy of benefit formulas to analyze the effects of proposed changes in state law.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–13286 Filed 5–24–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of May, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm of subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–39,070 & A; Eagle Knitting Mills, Shawano, WI & Kenosha, WI

TA–W–38,788; Cabinet Works LLC, Distinctive Woodworks LLC, Jefferson City, TN

TA–W–39,877; Standard Forged Products, Inc., Johnstown, PA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–38,921; Glenshaw Glass Co., Inc., Glenshaw, PA

TA–W–38,865 ; I and H Engineered Systems, Inc., Gaylord, MI

TA–W–39,151; Oxford Automotive, Inc., Alma, MI

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–39,080; Aur Resources (USA), Inc., Sparks, NV

TA–W–38,708; AAA Action Roofing, Torrance, CA

TA–W–38,853; Kasle Steel Dearborn Processing, Inc., Auto Press Product Div., Dearborn, MI

TA–W–38,878; Richard Leeds International, Scotland Neck, NC

The investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–39,148; Access Electronics, Inc., Gurnee, IL

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–38,931; I.C. Isaacs & Co., Inc., Baltimore, MD: March 16, 2000.

TA–W–39,092; Fontaine International, Fontaine Fifth Wheel, Rocky Mount, NC: April 5, 2000.

TA–W–38,810; Truform Rubber Products, Hudson, OH: February 28, 2000.

TA–W–38,778; Capitol Manufacturing Co., Fayetteville, NC: February 19, 2000.

TA–W–38,847; Racewear Designs, Inc., El Cajon, CA: March 4, 2000.

TA–W–39,190 & A, B; Wright's LLC, Allentown, PA, Orwigsburg, PA and Auburn, PA: April 19, 2000.

TA–W–39,010; Intel Puerto Rico, LTD, Las Piedras, PR: March 28, 2000.

TA–W–39,169; Red Cap-VF Workwear, VF Imagewear, Mathiston, MS: April 23, 2000.

TA–W–38,898; LTV Steel Mining Co., Hoyt Lakes, MN: March 5, 2000.

TA–W–38,783; O–Z/Gedney, Pitston, PA: February 21, 2000.

TA–W–38,946; Maxi Switch, Inc., Tucson, AZ: March 13, 2000.

TA–W–38,930; Harvest Time, Inc., New York, NY: March 14, 2000.

TA–W–38,802; Inman Mills, Inman, SC: February 23, 2000.

TA–W–39,066; Scimed Life Systems, Inc., A Div. of Boston Scientific Corp., Maple Grove, MN: March 30, 2000.

TA–W–39,064; Quadion Corp., Minnesota Rubber Div., Minneapolis, MN: April 5, 2000.

TA–W–39,132; Nypro Alabama, Inc., Dothan, AL: April 10, 2000.

TA–W–39,004 & A; AgriFrozen Foods, Grandview, WA and Walla Walla, WA: March 23, 2000.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of May, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm of subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat or separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–04840; Newport Steel Corp., Newport, KY

NAFTA–TAA–04588; Capitol Manufacturing Co.,Fayetteville, NC

NAFTA–TAA–04581; & A; Eagle Knitting Mills, Inc., Shawano, WI and Kenosha, WI

NAFTA–TAA–04841; Allied Textiles USA, LLC, Charlotte, NC

NAFTA–TAA–04658; Racewear Designs, Inc., El Cajon, CA

NAFTA–TAA–04723; Taylor Lumber and Treating, Sheridan, OR

NAFTA–TAA–04794 & A, B; Wright's LLC, Allentown, PA, Orwigsburg, PA and Auburn, PA

NAFTA–TAA–04517 & A; Mirro Co., Div. of Newell-Rubbermaid, Mirro/Foley Plant 20, Chilton, WI and Mirro/Foley Plant 10, Manitowoc, WI

NAFTA–TAA–04760; Oxford Automotive, Inc., Alma, MI

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

NAFTA–TAA–04558; Modus Media International, Freemont Div., Freemont, CA

NAFTA–TAA–04659; Kasle Steel Dearborn Processing, Inc., Auto Press Products Div., Dearborn, MI

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–04806; Nypro Alabama, Inc., Dothan, AL: April 26, 2000.

NAFTA–TAA–04831; Avery Dennison, Spartan International Div., Holt, MI: March 2, 2000.

NAFTA–TAA–04733; Scimed Life Systems, Inc., A Div. of Boston Scientific Corp., Maple Grove, MN: April 4, 2000.

NAFTA–TAA–04719; Wolverine Roof Truss, Inc., Milan, MI: March 21, 2000.

NAFTA–TAA–04807; Cooper Wiring Devices, Div. of Cooper Industries, a/k/a Eagle Electronic Manufacturing Co, Long Island City, NY: April 2, 2000.

NAFTA–TAA–04519; Mallinckrodt, Inc., Plymouth, MN: January 22, 2000.

I hereby certify that the aforementioned determinations were issued during the month of May, 2001. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: May 18, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–13227 Filed 5–24–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,768]

Loogootee Manufacturing, Loogootee, IN; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 5, 2001 in response to a petition filed on behalf of workers at Loogootee Manufacturing, Loogootee, Indiana.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 10th day of May, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–13225 Filed 5–24–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,766]

SPEC Cast, Dyersville, IA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on March 5, 2001, in response to a worker petition which was filed on behalf of workers at Spec Cast, Dyersville, Iowa.

An active certification covering the petitioning group of workers at the subject firm remains in effect (TA–W–38,714). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 16th day of May, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–13222 Filed 5–24–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Benefits, Timeliness and Quality Data Collection System; Comment Request

ACTION: Notice; request for comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with a provision of the Paperwork Reduction Act of 1995 at 44 U.S.C. 3506(c)(2)(A). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed extension of the Benefits, Timeliness and Quality (BTQ) data collection system.

A copy of the proposed information collection request can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before July 24, 2001.

ADDRESSES: Delores A. Mackall, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–4231, Washington, DC 20210, 202–693–3183 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of Labor under the Social Security Act, Title III, Section 302 (42 U.S.C. 502), funds the necessary cost of proper and efficient administration of each State Unemployment Insurance (UI) law. The BTQ program collects information and analyses data to do this. The BTQ measures, which have been implemented, look at timeliness and quality of States' performance, various administrative actions and administrative decisions concerning UI benefit operations.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

Continued collection of data under the BTQ system will provide for a comprehensive evaluation of the overall UI program. The BTQ program has been, and will continue to be, one of the primary means used by UI Regional and National Office staff to assess performance levels of individual States and, as a basis for oversight, to discharge the Secretary of Labor's responsibility for determining proper and efficient administration. The SESAs also use the BTQ measures for their internal program assessment.

Type of Review: Extension.

Agency: Employment and Training Administration.

Title: Benefits, Timeliness and Quality Review.

OMB Number: 1205–0359.

Affected Public: State Government.

Total Respondents: 53.

Frequency: Monthly and Quarterly.

Total Responses: 54,908.

Average Time per Response: 0.7 hours.

Estimated Total Burden Hours: 38,486 hours.

Total Burden Cost (operating/maintaining): 0.

Dated: May 17, 2001.

Grace A. Kilbane,

Administrator, Office of Workforce Security.

[FR Doc. 01–13221 Filed 5–24–01; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration (ETA) is soliciting comments concerning the proposed extension collection of the reemployement services reporting request. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee's section below on or before July 24, 2001.

ADDRESSES: Gay Gilbert, Office of Workforce Security, U.S. Employment Service, 200 Constitution Ave. NW Room C4512, Washington, DC 20210, (202) 693–3046, (This is not a toll free number), FAX (202) 693–3229.

SUPPLEMENTARY INFORMATION:

I. Background

In Program Year 2001 budget for Wagner-Peyser Act State Employment Service Agencies (SESA) were allocated funds for reemployment services to UI claimants. ETA is requesting authorization to require SESAs to submit an annual plan narrative and one progress report at the end of the year. The materials will assist ETA in reviewing the appropriateness of the selected activity for reemployment services and determining whether or not the purpose of the funds was achieved. Specific reporting is necessary to adequately tract this activity separately from regular operations and record keeping.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

This is a request for the OMB approval of an extension to an existing collection of information previously approved under the emergency processing for activities funded through reemployment services allotments. The activities funded under the reemployment services allotments will go beyond the OMB six month emergency processing approval. Therefore this request is being submitted to permit the data collection for the total period of the reemployment services allotment activities for the first year and any new allotments during the next three years.

Type of Review: Extension (without change).

Agency: Employment and Training.

Title: Reemployment Services Plan and Report.

OMB Number: 1205–ONEW.

Affected Public: States.

Total Respondents: 54.

Frequency: Annual.

Total Responses: 108.

Average Time per Response: 56.

Form	Number of respondents	Responses per year	Total responses	Hours per response	Total burden hours
Annual Plan	54	1	54	40	2,160
Progress Report	54	1	54	16	864
Totals	54	2	108	56	3,024

Estimated Total Burden Hours: 3,024.

Total Burden Cost: (capital/startup): 0.

Total Burden Cost: (operating/maintaining): $108.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 14, 2001.

Gay Gilbert,

Division Chief of U.S. Employment Service/ALMIS.

[FR Doc. 01–13228 Filed 5–24–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–04779]

Mar-Bax Shirt Co., Capital Mercury Apparel Ltd., Gassville, AR; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on March 16, 2001 in response to a worker petition which was filed on behalf of workers at Mar-Bax Shirt Co., Capital Mercury Apparel Ltd., Gassville, Arkansas.

The petitioning group of workers is subject to an ongoing investigation for which a determination has not yet been issued NAFTA–04752. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 17th day of May 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–13223 Filed 5–24–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–4617]

NAPCO Button, Inc., Coppell, TX; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–118) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2331), an investigation was initiated on March 9, 2001, in response to a petition filed on behalf of workers at NAPCO Button, Inc., Coppell, Texas. Workers produced dyed buttons.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 16th day of May, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–13224 Filed 5–24–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–04433]

VF Imagewear (West), Inc., Formerly Known as VF Workwear, Inc., Clarksville, TX; Amended Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

In accordance with section 250(A), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974 (19 U.S.C. 2273), the Department of Labor issued a Certification of NAFTA Transitional Adjustment Assistance on February 2, 2001, applicable to workers of VF Imagewear (West), Inc., Clarksville, Texas. The notice was published in the **Federal Register** on March 2, 2001 (66 FR 13087).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New findings show that the Department incorrectly identify the subject firm title name in its entirety. The Department is amending the certification determination to correctly identify the subject firm title name to read VF Imagewear (West), Inc. formerly known as VF Workwear, Inc.

The amended notice applicable to NAFTA–04433 is hereby issued as follows:

All workers of VF Imagewear (West), Inc., formerly known as VF Workwear, Inc., Clarksville, Texas who became totally or partially separated from employment on of after December 19, 1999 through February 2, 2003 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, DC this 17th day of May, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–13226 Filed 5–24–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersede as decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register,** or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution

Avenue, NW., Room S–3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of decisions listed to the Government Printing Office document entitled ''General Wage determinations Issued Under the Davis-Bacon and related Acts'' being modified are listed by Volume and State. Dates of Publication in the **Federal Register** are in parentheses following in the decisions being modified.

Volume I

New Jersey
NJ010001 (Mar. 02, 2001)

Volume II

District of Columbia
DC010001 (Mar. 02, 2001)
DC010003 (Mar. 02, 2001)
Maryland
MD010002 (Mar. 02, 2001)
MD010010 (Mar. 02, 2001)
MD010017 (Mar. 02, 2001)
MD010031 (Mar. 02, 2001)
MD010043 (Mar. 02, 2001)
MD010048 (Mar. 02, 2001)
MD010057 (Mar. 02, 2001)
Virginia
VA010025 (Mar. 02, 2001)
VA010078 (Mar. 02, 2001)
VA010092 (Mar. 02, 2001)
VA010099 (Mar. 02, 2001)

Volume III

Florida
FL010001 (Mar. 02, 2001)
FL010015 (Mar. 02, 2001)
FL010017 (Mar. 02, 2001)
FL010032 (Mar. 02, 2001)

Volume IV

Indiana
IN010008 (Mar 02, 2001)
INDEX (Mar 02, 2001)

Volume V

Kansas
KS010006 (Mar. 02, 2001)
KS010008 (Mar. 02, 2001)
KS010012 (Mar. 02, 2001)
KS010022 (Mar. 02, 2001)
KS010069 (Mar. 02, 2001)
KS010070 (Mar. 02, 2001)
Missouri
MO010004 (Mar. 02, 2001)
MO010014 (Mar. 02, 2001)
INDEX (Mar. 02, 2001)
Texas
TX010007 (Mar. 02, 2001)
TX010033 (Mar. 02, 2001)
TX010034 (Mar. 02, 2001)
TX010035 (Mar. 02, 2001)
TX010037 (Mar. 02, 2001)
TX010069 (Mar. 02, 2001)

Volume VI

None

Volume VII

None

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *www.access.gpo.gov/davisbacon.* They are also available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the State covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 17th Day of May 2001.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 01–12842 Filed 5–24–01; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of existing safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Big Ridge, Inc.

[Docket No. M–2001–013–C]

Big Ridge, Inc., P.O. Box 444, Harrisburg, Illinois 62946 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) and 30 CFR 18.41(f) (plug and receptacle-type connectors) to its Willow Lake Portal Mine (I.D. No. 11–03054) located in Saline County, Illinois. The petitioner requests that its previously granted petition for modification for the Arclar Company, Big Ridge Mine, I.D. No. 11–02997, docket number M–98–69–C be transferred to the Big Ridge, Inc., Willow Lake Portal Mine, I.D. No. 11–03054. The petitioner proposes to use fabricated metal locking devices, consisting of a locking screw threaded through a steel bracket to lock battery plugs to machine-mounted battery receptacles on permissible, mobile battery-powered machines instead of using padlocks, to prevent the threaded rings that secure the battery plugs to the battery receptacles from unintentionally loosening. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard and petition for modification.

2. Consolidation Coal Company

[Docket No. M–2001–014–C and M–2001–015–C]

Consolidation Coal Company, Consol Plaza, 1800 Washington Road, Pittsburgh, Pennsylvania 15241–1421 has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas wells) to its Blacksville No. 2 Mine (I.D. No. 46–01968) located in Monongalia County, West Virginia, and its Robinson Run No. 95 Mine (I.D. No. 46–01318) located in Harrison County, West Virginia. The petitioner proposes to seal the Pittsburgh Coal Seam from the surrounding strata at the abandoned wells using technology developed through its well-plugging program instead of maintaining barriers around the oil and gas wells. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

3. Goodin Creek Contracting, Inc.

[Docket No. M–2001–016–C]

Goodin Creek Contracting, Inc., Rt. 1, Box 419–A1, Gray, Kentucky 40734 has filed a petition to modify the application of 30 CFR 75.342 (methane monitors) to its Goodin Creek #2 Mine (I.D. No. 15–18304) located in Knox County, Kentucky. The petitioner proposes to use hand-held, continuous-duty methane and oxygen indicators instead of machine-mounted methane monitors on three-wheel tractors with drag bottom buckets. The petitioner asserts that the proposed alternative method would provide at least the same

measure of protection as the existing standard.

4. Goodin Creek Contracting, Inc.

[Docket No. M–2001–017–C]

Goodin Creek Contracting, Inc., Rt. 1, Box 419–A1, Gray, Kentucky 40734 has filed a petition to modify the application of 30 CFR 75.380(f)(4)(I) (escapeways; bituminous and lignite mines) to its Goodin Creek #2 Mine (I.D. No. 15–18304) located in Knox County, Kentucky. The petitioner proposes to use one twenty-or two ten-pound portable chemical fire extinguishers on each Mescher tractor. The fire extinguishers will be readily accessible to the equipment operator. The petitioner proposes to instruct the equipment operator to inspect each fire extinguisher daily before entering the mine, and maintain records of all inspections of the fire extinguishers. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

5. Excel Mining, LLC

[Docket No. M–2001–018–C]

Excel Mining, LLC, 4126 State Highway 194 West, Pikeville, Kentucky 41501 has filed a petition to modify the application of 30 CFR 75.388(a)(1) (boreholes in advance of mining) to its Excel Mine No. 3 (I.D. No. 15–08079) located in Pike County, Kentucky. The petitioner proposes to drill boreholes in each advancing working place when the working place approaches to within twenty-five (25) feet of certain areas of the mine as shown by the surveys certified by a registered engineer or registered surveyor unless the area has been preshift examined. The petitioner has outlined specific terms and conditions in this petition that would be followed when implementing its proposed alternative method. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

6. Windsor Coal Company

[Docket No. M–2001–019–C]

Windsor Coal Company, P.O. Box 39, West Liberty, West Virginia 26074 has filed a petition to modify the application of 30 CFR 75.364(b)(2) (weekly examination) to its Windsor Mine (I.D. No. 46–01286) located in Brooke County, West Virginia. The petitioner proposes to establish evaluation points to examined the return air course on a weekly basis and to maintain the evaluation points in safe condition, to have a certified person test for the proper quantity, quality, and direction of the air at all check points and place his/her initials, the date, and time in a record book kept on the surface and made available for inspection by interested persons. The petitioner states that due to deteriorating roof and rib conditions, traveling certain areas of the return air course would expose persons to hazardous conditions. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

7. Brushy Creek Coal Company

[Docket No. M–2001–020–C]

Brushy Creek Coal Company, 4270 North American Road, Galatia, Illinois 62935 has filed a petition to modify the application of 30 CFR 75.364(b)(4) (weekly examination) to its Brushy Creek Mine (I.D. No. 11–02636) located in Saline County, Illinois. The petitioner requests a modification of the existing standard to allow weekly examinations for water and gas levels at the seals of the #6 Slope to be checked at the slope. The petitioner proposes to construct a double set of seals and to check the water and gas concentrates at the slope seals. The petitioner asserts that application of the existing standard would result in a diminution of safety to the miners and that proposed alternative method would provide at least the same measure of protection as the existing standard.

8. Brushy Creek Coal Company

[Docket No. M–2001–021–C]

Brushy Creek Coal Company, 4270 North American Road, Galatia, Illinois 62935 has filed a petition to modify the application of 30 CFR 75.360(b)(5) (preshift examination) to its Brushy Creek Mine (I.D. No. 11–02636) located in Saline County, Illinois. The petitioner requests a modification of the existing standard to allow preshift examinations for water and gas levels at the seals of the #6 slope to be checked at the slope. The petitioner proposes to construct a double set of seals and to check the water and gas concentrates at the slope seals. The petitioner asserts that application of the existing standard would result in a diminution of safety to the miners and that proposed alternative method would provide at least the same measure of protection as the existing standard.

9. Cook and Sons Mining, Inc.

[Docket No. M–2001–022–C]

Cook and Sons Mining, Inc., 147 Big Blue Boulevard, Whitesburg, Kentucky 41858 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) and 30 CFR 18.41(f) to its Premium Mine (I.D. No. 15–08978) and its Sandlick Mine (I.D. No. 15–17896) located in located Letcher County, Kentucky. The petitioner proposes to use a permanently installed spring-loaded locking device on permissible mobile battery-powered machines instead of using padlocks. This device will prevent unintentional loosening of battery plugs from battery receptacles, thus eliminating the hazards associated with difficult removal of padlocks during emergency situations. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

10. Knife River Corporation

[Docket No. M–2001–023–C]

Knife River Corporation, P.O. Box 30, Savage, Montana 59262–0030 has filed a petition to modify the application of 30 CFR 77.900 (low- and medium-voltage circuits serving portable or mobile three-phase alternating current equipment; circuit breakers) to its Savage Mine (I.D. No. 24–00106) located in Richland County, Montana. The petitioner requests a modification of the standard for start up of the electric water pumps in the pit area when there is undervoltage or loss of power to the pump box. The petitioner proposes to: (i) Use automatic resetting circuit breakers that meet the requirement of the existing standard and that would reset only after trips that are caused by undervoltage; (ii) have a qualified person record examinations and make the records available for inspection upon request by interested parties; (iii) provide electrical training to all affected mining personnel before the system is put in operation, record this training, and make it available for inspection at all times; (iv) obtain undervoltage release by the undervoltage unit and use a normal closed relay in combination with a capacitor trip unit to open the breaker; and (v) post visible signs at the pump controller and the pumps, warning of automatic restart of the pumps. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

11. Knife River Corporation

[Docket No. M–2001–024–C]

Knife River Corporation, P.O. Box 30, Savage, Montana 59262–0030 has filed a petition to modify the application of 30 CFR 77.900 (low- and medium-

voltage circuits serving portable or mobile three-phase alternating current equipment; circuit breakers) to its Beulah Mine (I.D. No. 32–00043) located in Mercer County, Montana. The petitioner requests a modification of the standard to permit start-up of the electric water pumps in the pit area when there is undervoltage or loss of power to the pump box. The petitioner proposes to: (i) Use automatic resetting circuit breakers that meet the requirement of the existing standard and that would reset only after trips that are caused by undervoltage; (ii) have a qualified person record examinations and make records available for inspection upon request by interested parties; (iii) provide electrical training to all affected mining personnel before the system is put in operation, record this training and make it available for inspection at all times; (iv) obtain undervoltage release by the undervoltage unit and use a normal closed relay in combination with a capacitor trip unit to open the breaker; and (v) post visible signs at the pump controller and at the pumps, warning of automatic restart of the pumps. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

12. Excel Mining, LLC

[Docket No. M–2001–025–C]

Excel Mining, LLC, HC 67, Box 615, Pilgrim, Kentucky 41250 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) and 30 CFR 18.41(f) (plug and receptacle-type connectors) to its Mine No. 2 (I.D. No. 15–09571) located in Martin County, Kentucky, and its Mine No. 3 (I.D. No. 15–08079) located in Pike County, Kentucky. The petitioner proposes to use a permanently installed locking screw threaded through a steel bracket or spring-loaded locking devices in lieu of padlocks on battery plugs for powering permissible underground mining equipment. This is to prevent the threaded rings securing the battery plugs to the battery receptacles from unintentional loosening. Warning tags stating ''Do Not Disengage Plugs Under Load'' will be placed on all battery connectors on the battery-powered equipment. The petitioner states that all personnel who operate and maintain the battery-powered mobile equipment would receive training before implementation of its alternative method. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Request for Comments

Persons interested in these petitions are encouraged to submit comments via e-mail to ''comments@msha.gov,'' or on a computer disk along with an original hard copy to the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 25, 2001. Copies of these petitions are available for inspection at that address.

Dated at Arlington, Virginia this 2nd day of May 2001.

David L. Meyer,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 01–13209 Filed 5–24–01; 8:45 am]

BILLING CODE 4510–43–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting

TIME AND DATE: The Board of Directors of the Legal Services Corporation will meet on May 29, 2001 via conference call. The meeting will begin at 11:30 a.m. and continue until conclusion of the Board's agenda.

LOCATION: 750 First Street, NE., 11th Floor, Washington, DC 20002, in Room 11026.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the agenda.
2. Consider and act on Board of Directors' Semiannual Report to Congress for the period of October 1, 2000 through March 31, 2001.
3. Consider and act on contractual arrangements for John McKay's separation as President of the Legal Services Corporation.
4. Consider and act on the appointment of an individual to assume the Office of President of the Legal Services Corporation on an interim basis upon John McKay vacating the position.
5. Status report on the progress of Performance Measures contract.
6. Consider and act on other business.
7. Public comment.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, Vice President for Legal Affairs, General Counsel & Corporate Secretary, at (202) 336–8800.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Elizabeth Cushing, at (202) 336–8800.

Dated: May 22, 2001.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 01–13331 Filed 5–22–01; 4:55 pm]

BILLING CODE 7050–01–P

NORTHEAST DAIRY COMPACT COMMISSION

Notice of Meeting

AGENCY: Northeast Dairy Compact Commission.

ACTION: Notice of meeting.

SUMMARY: The Compact Commission will hold its regular monthly meeting to consider matters relating to administration and enforcement of the price regulation. This meeting will be held in Wenham, Massachusetts, continuing the Commission's program of holding a meeting in each of the Compact states. In addition to receiving reports and recommendations of its standing Committees, the Commission will receive a number of informational reports about the impact of the over-order price regulation in Massachusetts.

DATES: The meeting will begin at 10 a.m. on Wednesday, June 6, 2001.

ADDRESSES: The meeting will be held at the Wenham Museum, 132 Main Street, Wenham, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Daniel Smith, Executive Director, Northeast Dairy Compact Commission, 64 Main Street, Room 21, Montpelier, VT 05602. Telephone (802) 229–1941.

Authority: 7 U.S.C. 7256

Dated: May 18, 2001.

Daniel Smith,

Executive Director.

[FR Doc. 01–13180 Filed 5–24–01; 8:45 am]

BILLING CODE 1650–01–P

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* Proposed Rule, 10 CFR parts 51, 61, 70, 72, 73, 74, 75, 76, and 150, Material Control and Accounting Amendments.

3. *The form number if applicable:* DOE/NRC Form 742 and DOE/NRC Form 742C.

4. *How often the collection is required:* The material control and accounting plan is submitted on occasion (no new applicants are expected). Reports on excessive inventory differences are reportable on occurrence. DOE/NRC Forms 742 and 742C are submitted annually for most licensees and semiannually for 2 licensees.

5. *Who will be required or asked to report:* Applicants for and holders of specific NRC licenses to receive title to, own, acquire, deliver, receive, possess, use, or initially transfer special nuclear material.

6. *An estimate of the number of responses:* Reports of excessive inventory difference under Part 74—1 response; DOE/NRC Form 742—202 responses; DOE/NRC Form 742C—182 responses.

7. *The estimated number of annual respondents:* Part 74 reports of excessive inventory difference—1; DOE/NRC Form 742—200; DOE/NRC Form 742C—180.

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* Part 74: 1836 hours (Reports of excessive inventory difference 100 hours + 1736 hours recordkeeping [9 hours per respondent]); Part 70:—1768 hours; DOE/NRC Form 742—152 hours (45 minutes per response); DOE/NRC Form 742C—1,092 hours (6 hours per response).

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* Applicable

10. *Abstract:* The Nuclear Regulatory Commission is proposing to amend its regulations in Parts 70, 72, and 74 that establish the requirements for material control and accounting of special nuclear material applicable to licensees who possess and use special nuclear material. The reporting requirements for submitting material balance reports (DOE/NRC Form 742) and inventory composition reports (DOE/NRC Form 742C) are being revised to reduce the frequency and change the timing of the reports. The general MC&A requirements and the requirements for Category II facilities are being relocated from Part 70 to Part 74. The MC&A requirements for Category II facilities are also being revised to be more risk-informed. The information in the reports and records is used by the NRC staff to ensure that public health and safety of the public is protected and that licensee possession and use of special nuclear material is in compliance with license and regulatory requirements. The information collection requirements imposed on the licensee are those deemed necessary for the timely discovery of inadvertent losses of special nuclear material to the environment or the theft or diversion of special nuclear material by potentially hostile groups. Certain of the requirements are necessary to satisfy obligations of the United States under its agreements with the International Atomic Energy Agency.

Submit, by June 25, 2001, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the submittal may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F23, Rockville, MD 20852. The proposed rule indicated in ''Proposed Rule, 10 CFR Parts 51, 61, 70, 72, 73, 74, 75, 76, and 150, Material Control and Accounting Amendments'' is or has been published in the **Federal Register** within several days of the publication date of this **Federal Register** Notice. The OMB clearance package and rule are available at the NRC worldwide web site: *http://www.nrc.gov/NRC/PUBLIC/OMB/index.html* for 60 days after the signature date of this notice and are also available at the rule forum site, *http://ruleforum.llnl.gov*.

Comments and questions should be directed to the OMB reviewer by June 25, 2001: Amy Farrell, Office of Information and Regulatory Affairs (3150–0004, –0009, –0058, and –0123), NEOB–10202 Office of Management and Budget, Washington DC 20503.

Comments can also be submitted by telephone at (202) 395–7318.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 17th day of May 2001.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–13255 Filed 5–24–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No.: 070–3035]

Consideration of License Amendment Request for the Babcock and Wilcox Facility and Shallow Land Disposal Area in Parks Township, PA, and Opportunity for a Hearing

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of consideration of license amendment requests for the Babcock and Wilcox Facility and Shallow Land Disposal Area in Parks Township, Pennsylvania , and Opportunity for a Hearing.

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of a license amendment to Special Nuclear Material License No. SNM–2001 (SNM–2001) (the license), issued to Babcock and Wilcox Company, Pennsylvania Nuclear Service Operation, to authorize amending condition 14, ''Schedule for Decommissioning Site'', of its SNM–2001 License at its Shallow Land Disposal Area (SLDA) facility in Parks Township, Pennsylvania.

SLDA site is on the NRC's Site Decommissioning Management Plan and the site is being assessed by the U.S. Army Corps of Engineers (USACE) for possible remediation under the Formerly Utilized Sites Remedial Action Program (FUSRAP). SLDA has been designated as a FUSRAP site. USACE is responsible for administration and execution of FUSRAP.

The licensee has requested an Alternate Schedule for Decommissioning Plan (DP) submittal due to issues arising from USACE involvement at the SLDA site. The licensee's current DP submittal schedule for SLDA is in accordance with the conditions discussed in SNM–414 License.

On May 8, 2001, the licensee submitted a license amendment request proposing that the licensee will submit a site DP six months after the issuance of the Final USACE Preliminary

Assessment (PA) if the PA determines that no further action under Comprehensive, Environmental Response, and Liability, Act of 1980, as amended (CERCLA) and FUSRAP is recommended for SLDA. Alternatively, licensee will submit a request for license suspension within sixty days of the USACE's Record of Decision to remediate the SLDA under CERCLA if the PA determines that the SLDA is recommended for further action under CERCLA and FUSRAP.

The NRC hereby provides notice that this is a proceeding on request for amendment of a license falling within the scope of Subpart L ''Informal Hearing Procedures for Adjudication in Materials Licensing Proceedings'', of NRC's rules and practice for domestic licensing proceedings in 10 CFR Part 2. Pursuant to section 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with Section 2.1205(c). A request for a hearing must be filed within thirty (30) days of the date of publication of this **Federal Register** notice.

The request for a hearing must be filed with the Office of the Secretary either:

1. By delivery to the Docketing and Service Branch of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738; or

2. By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Docketing and Service Branch.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

1. The interest of the requester in the proceeding;

2. How that interest may be affected by the results of the proceeding, including the reasons why the requester should be permitted a hearing, with particular reference to the factors set out in Section 2.1205(g);

3. The requester's area of concern about the licensing activity that is the subject matter of the proceeding; and

4. The circumstances establishing that the request for a hearing is timely in accordance with Section 2.1205(c).

In accordance with 10 CFR 2.1205(e), each request for a hearing must also be served by delivering it personally or by mail, to:

1. The applicant, Babcock and Wilcox Company, R.D. 1, Box 355, Vandergrift, PA 15690, Attention Mr. Richard M. Bartosik; and

2. The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738, or by mail to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

For further details with respect to this action, the licensee request and plans are available for inspection at the NRC's Public Document Room, One White Flint North, 11555 Rockville Pike, Rockville, MD, 20852–2738.

Dated at Rockville, Maryland, this 18th Day of May, 2001.

For the Nuclear Regulatory Commission

Robert A. Nelson,

Acting Chief, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 01–13256 Filed 5–24–01; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Placement Service.

(2) *Form(s) submitted:* ES–2, ES–20a, ES–20b, ES–21, UI–35 and Job Vacancies Report.

(3) *OMB Number:* 3220–0057.

(4) *Expiration date of current OMB clearance:* 9/30/2001.

(5) *Type of Request:* Extension of a currently approved collection.

(6) *Respondents:* Application for Benefits, program planning or management.

(7) *Estimated annual number of respondents:* 13,750.

(8) *Total annual responses:* 27,000.

(9) *Total annual reporting hours:* 1,494.

(10) *Collection description:* Under the RUIA, the Railroad Retirement Board provides job placement assistance for unemployed railroad workers. The collection obtains information from job applicants, railroad and non-railroad employers, and State Employment Service offices for use in placement, for providing referrals for job openings, reports of referral results and for verifying and monitoring claimant eligibility.

FOR FURTHER INFORMATION CONTACT: Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 and the OMB reviewer, Joe Lackey (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, D.C. 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 01–13210 Filed 5–24–01; 8:45 am]

BILLING CODE 7905–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Supplement to Claim of Person Outside the United States.

(2) *Form(s) submitted:* G–45.

(3) *OMB Number:* 3220–0155.

(4) *Expiration date of current OMB clearance:* 9/30/2001.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Program planning or management.

(7) *Estimated annual number of respondents:* 100.

(8) *Total annual responses:* 100.

(9) *Total annual reporting hours:* 17.

(10) *Collection description:* Under Public Law 98–21, the Tier I or the overall minimum portion of an annuity and Medicare benefits payable under the Railroad Retirement Act to certain beneficiaries living outside the United States may be withheld. The collection obtains the information needed by the Railroad Retirement Board to implement the benefit withholding provisions of Pub. L. 98–21.

FOR FURTHER INFORMATION CONTACT: Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush

Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Joe Lackey (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 01–13211 Filed 5–24–01; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27402]

Filings Under the Public Utility Holding Company Act of 1935, as amended (''Act'')

May 21, 2001.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by, June 15, 2001, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declaration(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After June 15, 2001, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Ameren Corporation (70–8945)

Ameren Corporation (''Ameren''), 1901 Chouteau Avenue, St. Louis, Missouri 63103, a registered holding company, filed with this Commission a post-effective amendment to its previously filed application-declaration under sections 6(a), 7, 9(a), 9(c)(3), 10 and 13(b) under the Act and rules 42, 54, 80–91, 93 and 94 under the Act.

By order dated Dec. 30, 1997 in this proceeding (HCAR No. 26809), the Commission authorized Ameren, among other things, to acquire Union Electric Company (''UE'') and Central Illinois Public Service Company (''CIPS''), each of which is an electric and gas utility company (''Merger''). Together, UE and CIPS provide retail and wholesale electric service to approximately 1.5 million customers and retail natural gas service to approximately 300,000 customers in a 24,500 square-mile area of Missouri and Illinois.

In addition, the Commission authorized Ameren to retain the direct and indirect nonutility subsidiaries and investments of UE and CIPSCO Incorporated, CIPS' parent company, subject to certain exceptions. Specifically, the Commission conditioned its approval for the Merger on the commitment of Ameren to reduce the voting interest or investment of Union Electric Development Corporation (''UEDC''), a subsidiary of UE, of CIPSCO Investment Company (''CIPSCO Investment''), a subsidiary of CIPSCO Incorporated, and of CIPSCO Venture Company (''CIPSCO Venture''), an indirect subsidiary of CIPSCO Incorporated, in certain limited liability companies. Ameren committed to reduce its indirect ownership in these limited liability companies to below five percent within three years of the date of the Commission's order, so that these entities would not constitute ''affiliates'' of Ameren under the Act. In no case is UEDC or CIPSCO Venture the managing member of any of the limited liability companies that are the subject of this commitment.

By supplement order dated Dec. 13, 2000 (HCAR No. 27299), the Commission granted Ameren an extension until June 30, 2001 to comply with its commitment to sell down these limited liability interests. Currently, Ameren indirectly holds five percent or more of the membership interests of the following limited liability companies:

St. Louis Equity Funds & Housing Missouri, Inc.—UEDC and CIPSCO Investment have interested or committed to invest in varying percentages (not greater than 23%) in ten separate investment funds (''St. Louis Funds'') formed to make investments in low income housing properties that qualify for federal tax credits. Four of the St. Louis Funds in existence at the time of the merger were organized as limited liability companies. The manger is a not-for-profit company that is not in any way affiliated with Ameren;

Effingham Development Building II Limited Liability Company—CIPSCO Venture holds a 40% membership interest in this entity, which owns a manufacturing facility that is leased to an industrial customer. This investment was intended to promote industrial development within CIPS's service territory. Agracel Inc., an unaffiliated third party, is the managing member;

Mattoon Enterprise Park, LLC—CIPSCO Venture owns a 20% interest in this limited liability company, which purchased farmland that was used in the development of an industrial park within the boundaries of the City of Mattoon. This investment was made to promote industrial development activity in CIPS's service territory in order to, among other things, increase industrial load. Agracel Inc. is the managing member; and

MACC, LLC—CIPSCO Venture owns a one-third interest in this limited liability company which purchased land and developed an industrial facility for lease to two industrial tenants in the park. Agracel Inc. is the managing member.

Ameren now requests that the Commission relieve Ameren of its commitment to sell down these limited liability company interests and make further findings permitting Ameren to retain these interests indefinitely.

For the Commission by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–13252 Filed 5–24–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–24979; 812–10320]

Tremont Corporation; Notice of Application

May 17, 2001.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of application for an order under sections 2(a)(9) and 3(b)(2) of the Investment Company Act of 1940 (the ''Act'').

SUMMARY OF APPLICATION: Tremont Corporation (''Applicant'' or ''Tremont'') requests an order declaring that it controls NL Industries, Inc. (''NL'') and that applicant is primarily engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities.

FILING DATES: The application was filed on August 30, 1996, and amended on May 14, 1997, and April 27, 2001.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 11, 2001, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549–0609. Applicant, 1999 Broadway, Suite 4300, Denver, CO 80202.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Branch Chief, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 5th Street, NW., Washington, DC 20549–0102 (tel. (202) 942–8090).

Applicant's Representations

1. Applicant, a Delaware corporation formed in 1987 as a wholly-owned subsidiary of NL, is primarily engaged in the business of producing and selling titanium metals and titanium dioxide. Applicant's shares are listed and traded on the New York and Pacific Stock Exchanges. Applicant conducts its operations through Titanium Metals Corporation (''TIMET'') and NL. Applicant states that TIMET is one of the world's leading integrated producers of titanium metal products. Applicant further states that it owns approximately 39% of TIMET's outstanding voting securities and primarily controls TIMET. Applicant also states that NL is an international producer and marketer of titanium dioxide pigments to customers worldwide. Applicant owns approximately 20.4% of NL's outstanding voting securities.[1] Applicant states that, as of December 31, 2000, its interests in TIMET and NL represented approximately 23% and 68%, respectively, of applicant's total assets (exclusive of Government securities and cash items) on an unconsolidated basis. Applicant also has wholly-owned subsidiaries TRECO L.L.C. that is engaged in the real estate business and relies on section 3(c)(1) of the Act, and NL Insurance Limited of Vermont (''NLIV''), an insurance company that is exempt pursuant to section 3(c)(3) of the Act.

Applicant's Legal Analysis

1. Under section 3(a)(1)(C) of the Act, an issuer is an investment company if it is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value in excess of 40 percent of the value of the issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis. Under section 3(a)(2) of the Act, investment securities include all securities except Government securities, securities issued by employee securities companies, and securities issued by majority-owned subsidiaries of the owner which (i) are not investment companies, and (ii) are not relying on the exclusions from the definition of investment company in section 3(c)(1) or 3(c)(7) of the Act.

2. Section 3(b)(2) of the Act provides that, notwithstanding section 3(a)(1)(C) of the Act, the SEC may issue an order declaring an issuer to be primarily engaged in a business other than that of investing, reinvesting, owning, holding, or trading in securities either directly, through majority-owned subsidiaries, or through controlled companies conducting similar types of businesses. Section 2(a)(9) of the Act defines ''control'' as the power to exercise a controlling influence over the management or policies of a company. That section creates a presumption that an owner of more than 25% of a company's outstanding voting securities controls the company, and that an owner of 25% or less of a company's outstanding voting securities does not control the company. Section 2(a)(9) further provides that any such presumption may be rebutted by evidence.

3. Applicant requests an order under section 2(a)(9) of the Act declaring that it controls NL and under section 3(b)(2) declaring that applicant is primarily engaged, through TIMET and NL as controlled companies, in a business other than that of investing, reinvesting, owning, holding or trading in securities.

4. Applicant states that it controls NL within the meaning of section 2(a)(9) of the Act, notwithstanding that it owns less than 25% of NL's outstanding voting securities, through significant and active participation in the management of NL. Five of the members of the board of directors of Tremont (''Tremont board'') are also members of NL's seven member board of directors. Mr. J. Landis Martin, Chairman of the Board, Chief Executive Officer and President of Tremont also serves as the Chief Executive Officer and President of NL. Ms. Susan E. Alderton, a member of the Tremont board, also serves as Chief Financial Officer, Vice President and Treasurer of NL. Mr. Harold C. Simmons, a member of the Tremont board, also serves as Chairman of the Board of NL. Applicant states that the directors and officers of Tremont play an active role in setting NL's general policies and provide support to NL's management, and that a finding of control under section 2(a)(9) therefore is appropriate.

5. Under section 3(b)(2) of the Act, in determining whether an applicant is primarily engaged in a non-investment company business, the SEC considers the following factors: (a) Applicant's historical development; (b) applicant's public representations of policy; (c) the activities of applicant's officers and directors; (d) the nature of applicant's present assets; and (e) the sources of applicant's present income.[2]

a. *Historical Development:* Applicants states that since its formation in 1987, it has been engaged primarily in the businesses of petroleum services and bentonite mining, as well as the production and sale of titanium metals and titanium dioxide.

b. *Public Representations of Policy:* Applicant states that it has consistently held itself out as a holding company conducting its business operations through TIMET, NL, and TRECO. Applicant states that it does not hold and has never held itself out as an investment company within the meaning of the Act.

c. *Activities of Officers and Directors:* Applicant states that the primary activities of its officers and directors are participating in the governing and operational activities of TIMET and NL.

[1] Applicant states that approximately 60.2% of NL's outstanding voting securities is held by Valhi, Inc. (''Valhi''). Applicant also states that 80.02% of its outstanding voting securities is held by Tremont Group, Inc. (''TGI''), a company that is 80.01% held by Valhi and 19.99% held by Tremont Holdings LLC (''Tremont Holdings''), a single member limited liability company owned by NL. Tremont Holdings holds directly an additional 0.13% of applicant's outstanding voting securities. Applicant further states that TGI may be deemed to control applicant and Mr. Harold C. Simmons may be deemed to control Valhi.

[2] *See Tonopah Mining Company of Nevada,* 26 S.E.C. 426 (1946).

d. *Nature of Assets:* Applicant states that, as of December 31, 2000, its interest in TIMET represented 23%, and its interest in NL represented 68%, of applicant's total assets on an unconsolidated basis (exclusive of Government securities and cash items).

e. *Sources of Income:* Applicant states that, for the four quarters ended December 31, 2000, it had net income after taxes of $9.2 million, of which 91.5% was attributable to TIMET, NL and NLIV.

6. Applicant thus asserts that it meets the requirements for an order under section 3(b)(2) of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–13213 Filed 5–24–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of May 28, 2001.

A closed meeting will be held on Thursday, May 31, 2001, at 11 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (9)(A), 9(B), and (10) and 17 CFR 200.402(a)(3), (5), (7), (9)(i), 9(ii) and (10), permit consideration of the scheduled matters at the closed meeting.

The subject matters of the closed meeting scheduled for Thursday, May 31, 2001 will be:

Institution and settlement of injunctive actions; and

Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: May 23, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–13444 Filed 5–23–01; 3:51 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44324; File No. SR–BSE–2001–02]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Boston Stock Exchange Adopting a Fee for Leases of Memberships

May 18, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 30, 2001, the Boston Stock Exchange (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by BSE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's fee schedule to include a membership lease fee charged to members who choose to lease a membership from the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and the basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's fee schedule to include a monthly fee equal to one percent of the last consummated seat sale, billed quarterly in arrears, for leasing Exchange memberships from the Exchange. This fee will be charged to all qualified members who lease memberships from the Exchange when no public inventory is available. The fee will be charged in addition to all other membership fees, and will be arranged through a separate lease agreement the Exchange and the lessee.[3] The one percent fee figure was established based on recent lease agreements for Exchange memberships. The proposed lease fee will be in addition to any dues, fees or assessments charged by the Exchange. Moreover, the lessees of memberships will be subject to all other rules relevant to membership qualifications.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[4] in that the proposed rule change is designed to provide for the equitable allocation of reasonable dues, fees and other charges among the Exchange's members and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

[3] The Board of Directors of the Exchange has authorized the Exchange to sell or lease up to 15 memberships out of 23 authorized, but unsold, memberships. The lessees of these memberships would have the same rights and obligations as all other members of the Exchange. Phone call between John A. Boese, Assistant Vice President, Rule Development and Market Structure, BSE, George W. Mann, Jr., General Counsel, BSE, Florence Harmon, Senior Special Counsel, Division of Market Regulation (''Division''), Commission, Sonia Patton, Attorney, Division, Commission, and John Riedel, Attorney, Division, Commission (May 15, 2001).

[4] 15 U.S.C. 78f(b)(4).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated the proposed rule change as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act[5] and Rule 19b–4(f)(2) thereunder.[6] Accordingly, the proposed rule change will become effective upon filing. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the BSE. All submissions should refer to the File Number SR–BSE–2001–02 and should be submitted June 15, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–13214 Filed 5–24–01; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3337, Amdt. #1]

State of Iowa

In accordance with a notice received from the Federal Emergency Management Agency, dated May 14, 2001, the above-numbered Declaration is hereby amended to include Calhoun County in the State of Iowa as a disaster area caused by flooding and severe storms beginning on April 8, 2001 and continuing.

In addition, applications for economic injury loans from small businesses located in Buena Vista, Carroll, Greene, Pocahontas, Sac and Webster Counties in the State of Iowa may be filed until the specified date at the previously designated location.

All other information remains the same, i.e., the deadline for filing applications for physical damage is July 1, 2001 and for economic injury the deadline is February 1, 2002.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 15, 2001.

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 01–13189 Filed 5–24–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3341]

State of Minnesota

As a result of the President's major disaster declaration on May 16, 2001, I find that Benton, Chippewa, Freeborn, Goodhue, Houston, St. Louis, Stevens, Wabasha, Washington, Winona and Yellow Medicine Counties, and the Tribal Governments of Prairie Island and Upper Sioux in the State of Minnesota constitute a disaster area due to damages caused by severe winter storms, flooding and tornadoes occurring between March 23, 2001 and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on July 15, 2001 and for economic injury until the close of business on February 15, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties in Minnesota may be filed until the specified date at the above location: Aitkin, Anoka, Big Stone, Carlton, Chisago, Dakota, Dodge, Douglas, Faribault, Fillmore, Grant, Itasca, Kandiyohi, Koochiching, Lac qui Parle, Lake, Lincoln, Lyon, Mille Lacs, Morrison, Mower, Olmsted, Pope, Ramsey, Rice, Redwood, Renville, Sherburne, Stearns, Steele, Swift, Traverse and Waseca; and Winnebago and Worth Counties in the State of Iowa; and Deuel County in the State of South Dakota.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	7.000
Homeowners without credit available elsewhere	3.500
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.000
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 334106. For economic injury the number assigned is 9L7200 for Minnesota, 9L7300 for Iowa, and 9L7400 for South Dakota.

Wisconsin counties and Iowa counties contiguous to the above named primary counties are not listed here because they have been previously declared.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 17, 2001.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 01–13191 Filed 5–24–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3340]

Commonwealth of Puerto Rico

As a result of the President's major disaster declaration on May 16, 2001, I find that the municipalities of Cabo Rojo, Lajas, Guanica, Guayanilla, San German and Yauco in the commonwealth of Puerto Rico constitute a disaster area due to damages caused by severe storms, flooding and mudslides beginning on May 6, 2001 and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on July 15, 2001, and for loans for economic injury until the close of business on February 15, 2002 at the address listed below or other locally announced locations: U.S. Small

[5] 15 U.S.C. 78s(b)(3)(A)(ii).

[6] 17 CFR 240.19b–4(f)(2).

[7] 17 CFR 200.30–3(a)(12).

Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South, 3rd Floor, Niagara Falls, NY 14303.

In addition, applications for economic injury loans from small businesses located in the following contiguous municipalities may be filed until the specified date at the above location: Adjuntas, Hormigueros, Lares, Maricao, Mayaguez, Penuelas, and Sabana Grande in the Commonwealth of Puerto Rico.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	6.625
Homeowners without credit available elsewhere	3.312
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster is 334011 for physical damage and 9L7100 for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 17, 2001.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 01–13190 Filed 5–24–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3340; Amendment #1]

Commonwealth of Puerto Rico

In accordance with a notice received from the Federal Emergency Management Agency, dated May 17, 2001, the above-numbered Declaration is hereby amended to include the municipalities of Adjuntas, Rincon and Sabana Grande in the Commonwealth of Puerto Rico as disaster areas caused by severe storms, flooding and mudslides beginning on May 6, 2001 and continuing.

In addition, applications for economic injury loans from small businesses located in the municipalities of Aguada, Anasco, Ponce and Utuado in the Commonwealth of Puerto Rico may be filed until the specified date at the previously designated location. Any municipalities contiguous to the above named primary municipalities and not listed here have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for physical damage is July 15, 2001 and for economic injury the deadline is February 15, 2002.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 21, 2001.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 01–13232 Filed 5–24–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[License No.: 09/09–5299]

Ally Finance Corporation; Notice of Surrender of License

Notice is hereby given that Ally Finance Corporation, located at 14011 Park Avenue, Suite 310, Victorville, California 92392, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Ally Finance Corporation was licensed by the Small Business Administration on June 6, 1982.

Under the authority vested by the Act and pursuant to the Regulations promulgate thereunder, the surrender of the license was accepted on May 9, 2001, and accordingly, all rights, privileges and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 16, 2001.

Harry Haskins,

Acting Associate Administrator for Investment.

[FR Doc. 01–13188 Filed 5–24–01; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2001–9730]

Chemical Transportation Advisory Committee; Vacancies

AGENCY: Coast Guard, DOT.

ACTION: Request for applications.

SUMMARY: The Coast Guard is seeking applications for appointment to membership on the Chemical Transportation Advisory Committee (CTAC). CTAC provides advice and makes recommendations to the Coast Guard on matters relating to the safe transportation and handling of hazardous materials in bulk on U.S.-flag vessels in U.S. ports and waterways.

DATES: Application forms should reach the Coast Guard on or before October 1, 2001.

ADDRESSES: You may request an application form by writing to Commandant (G–MSO–3), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001; by calling (202) 267–1217/0081; or by faxing (202) 267–4570. Submit application forms to the same address. This notice and the application form are available on the Internet at http://dms.dot.gov. The application form is also available at http://www.uscg.mil/hq/g-m/advisory/ctac/ctac.htm.

FOR FURTHER INFORMATION CONTACT: Commander Robert F. Corbin, Executive Director of CTAC, or Ms. Sara S. Ju, Assistant to the Executive Director, telephone (202) 267–1217/0081, fax (202) 267–4570.

SUPPLEMENTARY INFORMATION: The Chemical Transportation Advisory Committee (CTAC) is a Federal advisory committee constituted under 5 U.S.C. App. 2. It provides advice and makes recommendations to the Commandant through the Assistant Commandant for Marine Safety and Environmental Protection on matters relating to the safe transportation and handling of hazardous materials in bulk on U.S.-flag vessels in U.S. ports and waterways. The advice and recommendations of CTAC also assist the U.S. Coast Guard in formulating the position of the United States on hazardous material transportation issues prior to meetings of the International Maritime Organization.

CTAC meets at least once a year at Coast Guard Headquarters in Washington, DC. It may also meet more often than once a year as necessary. CTAC's subcommittees and working groups may meet to perform specific assignments as required.

The Coast Guard will consider applications for eight positions that expire in December 2001. To be eligible, applicants should have experience in chemical manufacturing, vessel design and construction, marine transportation of chemicals, occupational safety and health, or marine environmental protection issues associated with chemical transportation. Each member serves for a term of three years. Some members may serve consecutive terms.

All members serve at their own expense, and receive no salary, reimbursement of travel expenses, or other compensation from the Federal Government.

In support of the policy of the Department of Transportation on gender and ethnic diversity, the Coast Guard encourages applications from qualified women and members of minority groups.

Dated: May 14, 2001.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 01–13284 Filed 5–24–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impacts Statement San Diego County, CA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Oceanside, San Diego County, California.

FOR FURTHER INFORMATION CONTACT: Jeffrey Lewis, Senior Transportation Engineer, Federal Highway Administration, 980 9th Street, Suite 400, Sacramento, CA 95814–2724: Telephone (916) 498–5035. Internet address: *Jeff.Lewis@fhwa.dot.gov.*

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation and the City of Oceanside will prepare an environmental impact statement (EIS) on a proposal to construct an interchange at State Route 78 and Rancho Del Oro Drive in the City of Oceanside.

The new interchange is considered necessary to minimize existing and future traffic congestion at adjacent interchanges and arterial roadways in Carlsbad and Oceanside. The proposed project includes a new overcrossing structure and four new ramp connections from Rancho Del Oro Drive to SR78. Alternatives under consideration include the following: (1) Taking no action; (2) construction of a tight diamond interchange to connect SR78 and Rancho Del Oro Drive; (3) shifting the existing roadway and constructing the new diamond interchange to the north; (4) construction of a tight diamond interchange, shifted to the north with Rancho Del Oro realigned to the west; and (5) construction of an offset diamond, located north of State Route 78 with a fly-over structure for on- and off-ramps. All alternatives will accommodate the addition of an eastbound truck-climbing land between El Camino Real and College Boulevard.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. Public scoping meetings are anticipated to be held at appropriate locations in or near the cities of Oceanside and/or Carlsbad in summer/fall of 2001. After the draft EIS is made available for public and agency review, a public hearing will be held. Public notice will be given of the time and place of the public scoping meetings and public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above. The views of agencies having knowledge about the historic resources potentially affected by the proposal or interested in the effects of the project on historic properties are solicited.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal programs and activities apply to this program.)

Jeffery S. Lewis,

Senior Transportation Engineer, Sacramento, California.

[FR Doc. 01–13212 Filed 5–24–01; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Transportation Equity Act for the 21st Century; Webcast for the National Corridor Planning and Development Program and the Coordinated Border Infrastructure Program

AGENCY: Federal Highway Administration (FHWA); DOT.

ACTION: Notice of June 7, 2001 webcast following solicitation of intent to apply for fiscal year (FY) 2002 grants.

SUMMARY: This document provides notice that the FHWA will host a webcast following the May 7, 2001, publication of a notice in the **Federal Register** soliciting intent to apply for FY 2002 funds from the National Corridor Planning and Development Program (NCPD program) and the Coordinated Border Infrastructure Program (CBI program). Specific instructions on the format and content of a statement of intent to apply were provided in that notice. The NCPD and the CBI programs are discretionary grant programs funded by a single funding source. These programs provide funding for planning, project development, construction and operation of projects that serve border regions near Mexico and Canada and high priority corridors throughout the United States.

DATES: The webcast will be held on June 7, 2001 from 1 pm until 3:30 pm.

ADDRESSES: The entry point for viewing the webcast and information on asking questions during the webcast are available at the Midwest Resource Center website whose office will operate the webcast:

http://www.mrc.fhwa.dt.gov/theater/

A link to that site is available at the NCPD/CBI program website:

http://www.fhwa.dot.gov/hep10/corbor/corbor.html

FOR FURTHER INFORMATION CONTACT: For program issues: Mr. Martin Weiss, Office of Intermodal and Statewide Programs, HEPS–10, (202) 366–5010; or for legal issues: Mr. Robert Black, Office of the Chief Counsel, HCC–30, (202) 366–1359; Federal Highway Administration, 400 Seventh Street, SW., Washington DC, 20590. For webcast issues: Mr. Clayton Marcuson, HRC–05, (708) 283–3593; Federal Highway Administration, 19900 Governors Drive, Suite 301, Olympia Fields, Illinois, 60461.

SUPPLEMENTARY INFORMATION: States and metropolitan planning organizations (MPOs) are, under the NCPD program, eligible for discretionary grants for: Corridor feasibility; corridor planning; multistate coordination; environmental review; and construction. Border States and MPOs are, under the CBI program, eligible for discretionary grants for: Transportation and safety infrastructure improvements, operation and regulatory improvements, and coordination and safety inspection improvements in a border region.

The webcast on June 7, 2001, will be open to the public but is targeted to officials of States and MPOs and those expecting to work with such officials to develop statements of intent to apply for FY 2002 funding. The FHWA will begin the webcast by providing additional

background on the history of the NCPD/CBI program and on program administration. Subsequently, a question and answer session will be held.

Authority: 23 U.S.C. 315; sec. 1118 and 1119, Pub.L. 105–178, 112 Stat. 107 at 161 (1998); and 49 CFR 1.48.

Issued on: May 18, 2001.

Vincent F. Schimmoller,

Deputy Executive Director.

[FR Doc. 01–13185 Filed 5–24–01; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for a Waiver of Compliance

In accordance with Title 49, Code of Federal Regulations (CFR), sections 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance with certain requirements of Federal railroad safety regulations. The individual petitions are described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested and the petitioner's arguments in favor of relief.

Tennessee Valley Railroad Museum

[Docket Number FRA–2001–8888]

Tennessee Valley Railroad Museum (TVRM) seeks to renew a waiver from compliance with 49 CFR Part 240.201(d), which was originally granted and became effective on November 19, 1993, for a period of one year. Specifically, the original waiver allowed TVRM to operate without complying with the requirement of 49 CFR Part 240.201(d), which provides that only certified persons may operate trains or locomotives. The waiver affects only persons who participate in the engineer charter ''Engineer for a Day'' program. The TVRM plans to conduct this program on its own trackage from Mile Post No. 0.00 East Chattanooga Depot to Mile Post No. 3.0 Grand Junction Depot, a distance of three miles. Individuals participating in the program would be allowed to operate the train and experience the hands-on duties of a locomotive engineer.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket No. FRA–2001–8888) and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received within 45 days of the date of the notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours at the above address. All written communications are also accessible on the Internet at http://dms.dot.gov.

Issued in Washington D.C. on May 22, 2001.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 01–13283 Filed 5–24–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–55 (Sub–No. 589X)]

CSX Transportation, Inc.—Abandonment Exemption—in Logan County, WV

CSX Transportation, Inc. (CSXT) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon approximately 1.63-mile line of its railroad between milepost CMA 0.00 at Stollings and milepost CMA 1.63 at Fort Branch, in Logan County, WV. The line traverses United States Postal Service Zip Codes 25646 and 25076.

CSXT has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic moving over the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment and discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on June 26, 2001, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by June 4, 2001. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by June 14, 2001, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Natalie S. Rosenberg, Counsel, CSX Transportation, Inc., 500 Water Street J150, Jacksonville, FL 32202.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

CSXT has filed an environmental report which addresses the abandonment's effects, if any, on the environmental and historic resources. SEA will issue an environmental assessment (EA) by June 1, 2001. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

Pursuant to the provisions of 49 CFR 1152.29(e)(2), CSXT shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned its line. If consummation has not been effected by CSXT's filing of a notice of consummation by May 25, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at *www.stb.dot.gov.*

Decided: May 18, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–13163 Filed 5–24–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service

AGENCY: Departmental Offices, Treasury.

ACTION: Notice of meeting.

SUMMARY: This notice announces the date, time, and location for the quarterly meeting of the Treasury Advisory Committee on Commercial Operations (COAC), and the provisional agenda for consideration by the Committee.

DATES: The next meeting of the Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service will be held on Friday, June 15, 2001 at 9:00 a.m. at 740 15th Street, NW., Washington, DC. The duration of the meeting will be approximately four hours.

FOR FURTHER INFORMATION CONTACT: Gordana S. Earp, Deputy Director, Tariff and Trade Affairs (Enforcement), Office of the Under Secretary (Enforcement), Telephone: (202) 622–0230.

At this meeting, the Advisory Committee is expected to pursue the following agenda. The agenda may be modified prior to the meeting.

Agenda

(1) Merchandise Processing Fee (MPF)

(2) Report of the OR & R (Office of Rules & Regulation) Sub Committee

(3) Report of the CAT (Compliance Assessment Team) Sub Committee

(4) Report of the Import Data & Customs entry Sub Committee

(5) Update on Other Customs Matters

SUPPLEMENTARY INFORMATION: The meeting is open to the public; however, participation in the Committee's deliberations is limited to Committee members, Customs and Treasury Department staff, and persons invited to attend the meeting for special presentations. A person other than an Advisory Committee member who wishes to attend the meeting should contact Theresa Manning at (202) 622–0220 or Helen Belt at (202) 622–0230 for pre-clearance.

Dated: May 21, 2001.

Timothy E. Skud,

Acting Deputy Assistant Secretary, Regulatory, Tariff, and Trade (Enforcement).

[FR Doc. 01–13233 Filed 5–24–01; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Treasury

Proposed Information Collection; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed information collection, as required by the Paperwork Reduction Act of 1995. The OCC is soliciting comment concerning its proposed information collection titled, ''OCC Communications Products.''

DATES: You should submit written comments by July 24, 2001.

ADDRESSES: You should direct written comments to the Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 1–5, Attention: OCCPRODUCTS, 250 E Street, SW, Washington, DC 20219. In addition, comments may be sent by facsimile transmission to (202) 874–4448, or by electronic mail to *regs.comments@occ.treas.gov.* You can inspect and photocopy the comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC 20219. You can make an appointment to inspect the comments by calling (202) 874–5043.

FOR FURTHER INFORMATION CONTACT: You can request additional information from Jessie Dunaway or Camille Dixon, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC is proposing to collect the following information from national banks:

Title: OCC Communications Products.

OMB Number: 1557—to be assigned.

Description: The OCC is proposing to collect information from national banks regarding the quality, timeliness, and effectiveness of OCC communications products, such as booklets, issuances, CDs, and Web site. Completed questionnaires will provide the OCC with information needed to properly evaluate the effectiveness of its paper and electronic communications products. The OCC will use the information to identify problems and to improve its service to national banks.

Type of Review: New collection.

Affected Public: Businesses or other for-profit (national banks).

Estimated Number of Respondents: 2,300.

Estimated Total Annual Responses: 2,300.

Frequency of Response: One time.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden: 1,150 hours.

An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless the information collection displays a currently valid OMB control number.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techiques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 21, 2001.

Mark J. Tenhundfeld,

Assistant Director, Legislative and Regulatory Activities Division.

[FR Doc. 01–13259 Filed 5–24–01; 8:45 am]

BILLING CODE 4810–33–P

WOMEN'S PROGRESS COMMEMORATION COMMISSION

Meeting

Agency: Women's Progress Commemoration Commission.

Action: Meeting Notice.

Time and Date: Monday, June 11, 2001, 10 a.m.–4 p.m.

Place: The meeting site is the Radisson Barcelo Hotel Washington, 2121 P Street, NW., Washington, DC 20037.

Status: The meeting is open to the public.

Purpose: To hear testimony and determine the final report regarding an appropriate process for designating women's history sites and for raising public awareness about the sites across the country.

Contact Person: For further information, contact Beth Newburger, Executive Director of the Women's Progress Commemoration Commission. Phone number (202) 418–3437.

Beth W. Newburger,

Executive Director.

[FR Doc. 01–13292 Filed 5–24–01; 8:45 am]

BILLING CODE 6820–PF–U

Corrections

Federal Register

Vol. 66, No. 102

Friday, May 25, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

Correction

In the issue of Monday, May 21, 2001, on page 28036, in the first column, in the correction of notice document 01–11237, in the second paragraph, in the 3rd, 4th, 5th, and 6th lines, '' hrs. x 0.8 x $15 = $3,000).'' should read ''[Management and attorneys' time (1,000 hrs. x 0.80 x $125 = $100,000)+ clerical time (1,000 hrs. x 0.2 x $15 = $3,000).] ''

[FR Doc. C1–11237 Filed 5–24–01; 8:45 am]

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Federal Register

Friday,
May 25, 2001

Part II

Department of Labor

Office of Workers' Compensation Programs

20 CFR Parts 1 and 30

Performance of Functions Under This Chapter; Claims for Compensation Under the Energy Employees Occupational Illness Compensation Program Act; Final Rule

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

20 CFR Parts 1 and 30

RIN 1215–AB32

Performance of Functions Under This Chapter; Claims for Compensation Under the Energy Employees Occupational Illness Compensation Program Act

AGENCY: Office of Workers' Compensation Programs, Employment Standards Administration, Labor.

ACTION: Interim final rule; request for comments.

SUMMARY: This document contains the interim final regulations governing the administration of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA or Act), that provides lump-sum payments and medical benefits to covered employees and, where applicable, survivors of such employees, of the Department of Energy (DOE), its predecessor agencies and certain of its vendors, contractors and subcontractors. The Act also provides for the payment of smaller lump-sum payments and medical benefits to individuals already found eligible for benefits under section 5 of the Radiation Exposure Compensation Act and, where applicable, their survivors. The Department of Labor's (DOL) Office of Workers' Compensation Programs (OWCP) administers the adjudication of claims and payment of benefits under the EEOICPA, with the Department of Health and Human Services (HHS) calculating the amounts of radiation received by employees alleged to have sustained cancer as a result of such exposure and establishing guidelines to be followed in determining whether such cancers are at least as likely as not related to employment. The Department of Energy (DOE) and the Department of Justice (DOJ) are responsible for notifying potential claimants and submitting evidence necessary for DOL's adjudication of claims under the EEOICPA.

DATES: *Effective Date:* This interim final rule is effective July 24, 2001.

Compliance Dates: Affected parties do not have to comply with the information collection requirements in §§ 30.100, 30.101, 30.102, 30.111, 30.112, 30.206, 30.207, 30.213, 30.214, 30.216, 30.217, 30.401, 30.415, 30.416, 30.417, 30.420, 30.421, 30.505, 30.617, 30.700, 30.701 and 30.702 until the Department publishes in the **Federal Register** the control numbers assigned by the Office of Management and Budget (OMB) to these information collection requirements. Publication of the control numbers notifies the public that OMB has approved these information collection requirements under the Paperwork Reduction Act of 1995.

Comments: The Department invites written comments on the interim final rule from interested parties. Comments on the interim final rule must be received by August 23, 2001. Written comments on collections of information subject to the Paperwork Reduction Act must be received by July 24, 2001.

ADDRESSES: Submit written comments on the interim final rule to Shelby S. Hallmark, Acting Director, Office of Workers' Compensation Programs, Employment Standards Administration, U.S. Department of Labor, Room S–3524, 200 Constitution Avenue, N.W., Washington, DC 20210.

Written comments on the collection of information requirements should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Employment Standards Administration, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Shelby S. Hallmark, Acting Director, Office of Workers' Compensation Programs, Employment Standards Administration, U.S. Department of Labor, Room S–3524, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Telephone: 202–693–0036 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. What Is the Energy Employees Occupational Illness Compensation Program?

The Energy Employees Occupational Illness Compensation Program Act (EEOICPA), Public Law 106–398, 114 Stat. 1654, 1654A–1231 (October 30, 2000), was enacted as Title XXXVI of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001. The EEOICPA established a compensation program to provide a lump sum payment of $150,000 and medical benefits as compensation to covered employees suffering from designated illnesses incurred as a result of their exposure to radiation, beryllium, or silica while in the performance of duty for DOE and certain of its vendors, contractors and subcontractors. This legislation also provided for payment of compensation to certain survivors of these covered employees, as well as for payment of a smaller lump sum ($50,000) to individuals (who would also receive medical benefits), or their survivor(s), who were determined to be eligible for compensation under section 5 of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note).

The EEOICPA further instructed the President to designate one or more Federal agencies or officials to carry out the compensation program. Pursuant to this statutory provision, the President issued Executive Order 13179 (''Providing Compensation to America's Nuclear Weapons Workers'') of December 7, 2000 (65 FR 77487) which assigned primary responsibility for administering the compensation program to DOL. This executive order also directed HHS to, among other things, develop guidelines to assess the likelihood that an employee with cancer developed that cancer in the performance of duty at a DOE facility or atomic weapons facility, to establish methods for calculating radiation dose estimates for individuals applying for benefits under this program for whom there are inadequate records of radiation exposure, and perform such calculations. The President's order instructed DOE to provide DOL and HHS all relevant information to which it may have access, and to assist in the development of claims under the EEOICPA and state workers' compensation programs. Finally, the executive order directed DOJ to identify and notify RECA beneficiaries of their possible entitlement to benefits under the EEOICPA and to assist DOL in the adjudication of those claims.

II. Issuance of Interim Final Rule

Section 3611(a) of the EEOICPA both establishes the Energy Employees Occupational Illness Compensation Program and provides that ''[t]he President shall carry out the compensation program through one or more Federal agencies or officials, as designated by the President.'' Pursuant to this statutory provision, the President issued Executive Order 13179 section 2(a)(ii) of which directed the Secretary of Labor to ''promulgate regulations for the administration of the Program, except for functions assigned to other agencies pursuant to the Act or this order;'' no later than May 31, 2001. The Act further stipulates that its provisions for both lump-sum payments and medical benefits shall take effect ''on July 31, 2001, unless Congress otherwise provides in an Act enacted before that date.'' The Department believes that Congress's explicit mandate in the Act that the provisions for both lump-sum payments and medical benefits take effect on July 31, 2001 contemplates displacement of Administrative

Procedure Act (APA) notice and comment procedures and requires the publication of an Interim Final Rule as an initial matter.

Therefore, the Department believes that the ''good cause'' exception to APA notice and comment rulemaking applies to this rule. Under that exception, no pre-adoption procedures are required ''when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(B). The EEOICPA was enacted to provide efficient, uniform and adequate compensation for radiation, beryllium, and silica related health conditions to the civilian men and women who, over the past 50 years, performed duties uniquely associated with the nuclear weapons production and testing programs of DOE and its predecessor agencies. The enactment of EEOICPA was, in part, the result of the failure of existing state workers' compensation programs to provide uniform and adequate compensation for these types of occupational illnesses. DOL cannot begin to accept and process claims under the EEOICPA until these regulations are promulgated. The steps necessary for the usual notice and comment under the APA could not be completed in time for the program to become effective by July 31, 2001: approval of the notice of proposed rulemaking by the Secretary and OMB; publication in the **Federal Register**; receipt of, consideration of, and response to the comments submitted by interested parties; modification of the proposed rules, if appropriate; final approval by the Secretary; clearance by OMB; and publication in the **Federal Register**. Moreover, completion of these steps will further delay the implementation of the program. Accordingly, the Department believes that under 5 U.S.C. 553(b)(B), good cause exists for waiver of Notice of Proposed Rulemaking since issuance of proposed rules would be impracticable and contrary to the public interest.

While notice of proposed rulemaking is being waived, the Department is interested in comments and advice regarding changes that should be made to these interim rules. We will fully consider any comments on these rules that we receive on or before August 23, 2001, and will publish the Final Rule with any necessary changes.

III. What Are the Paperwork Requirements (Subject to the Paperwork Reduction Act) Imposed Under EEOICPA and the Department's Regulations, and How Are Comments Submitted?

The new collections of information contained in this rulemaking have been submitted for review to OMB in accordance with the Paperwork Reduction Act of 1995. No person is required to respond to a collection of information request unless the collection of information displays a valid OMB control number. The new information collection requirements are in §§ 30.100, 30.101, 30.102, 30.111, 30.112, 30.206, 30.207, 30.213, 30.214, 30.216, 30.217, 30.415, 30.416, 30.417, 30.505, 30.617 and 30.702, and they relate to information required to be submitted by claimants, medical providers, and witnesses as part of the claims adjudication process, as well as to information required to be submitted by claimants in connection with the processing of bills. To implement all but one of these new collections, the Department is proposing to create eight new forms (see sections A through E and sections G through I below). One new collection will be implemented without any specific form (see section F below).

In addition, this rulemaking contains currently approved collections of information in §§ 30.401, 30.420, 30.421, 30.700, 30.701 and 30.702, which relate to information required to be submitted by claimants and medical providers in connection with the processing of bills (see OMB–1215–0055, OMB–1215–0176, and OMB–1215–0194). These collections (Forms OWCP–1500, UB–92 and 79–1A) will be revised to include EEOICPA respondents.

A. Employee's Claim: Form EE–1 (§§ 30.100 and 30.102)

Summary: The claims adjudication process for employees begins with a requirement that they file a written claim for benefits with the Department on or after July 31, 2001. Employees do not need to use the ''Claim For Benefits Under Energy Employees Occupational Illness Compensation Program Act'' (Form EE–1) to initiate this process since any written communication that requests benefits under the EEOICPA will be considered a claim. They will, however, be required to submit a Form EE–1 to insure that OWCP has the basic factual information necessary to begin adjudicating the claim. In Form EE–1, the employee is requested to provide information with respect to his or her identity, contact information, the type of illness being claimed (with date of diagnosis), the location or type of employment, whether he or she is a member of the Special Exposure Cohort, and whether he or she received an award letter under the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) or filed a lawsuit regarding the claimed illness. OWCP may also require employees to provide factual information in support of any responses made on Form EE–1. All employees will be required to swear or affirm that the information provided on the Form EE–1 is true.

Need: Pursuant to the EEOICPA, a claim for benefits is necessary to both initiate the claims adjudication process and to establish a commencement date for any possible entitlement to medical benefits.

Respondents and proposed frequency of response: It is estimated that 43,140 employees annually will file one Form EE–1.

Estimated total annual burden: The time required to review instructions, search existing data sources, gather the data needed, and complete and review each Form EE–1 is estimated to take an average of 15 minutes per employee for a total annual burden of 10,785 hours.

B. Survivor's Claim: Form EE–2 (§§ 30.101 and 30.102)

Summary: The claims adjudication process for survivors begins with a requirement that they file a written claim for survivor benefits with the Department on or after July 31, 2001. Survivors do not need to use the ''Claim For Survivors Benefits Under Energy Employees Occupational Illness Compensation Program Act'' (Form EE–2) to initiate this process since any written communication that requests benefits under the EEOICPA will be considered a claim. They will, however, be required to submit Form EE–2 to insure that OWCP has the basic factual information necessary to begin adjudicating the claim. In Form EE–2, the survivor is asked to provide information with respect to both his or her identity and the identity of the deceased employee, contact information, the type of illness being claimed (with date of diagnosis), the location or type of employment, whether the deceased employee was a member of the Special Exposure Cohort, and whether he or she (or the deceased employee) received an award letter under the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) or filed a lawsuit regarding the claimed illness. OWCP may also require survivors to provide factual information

in support of any responses made on Form EE–2. All survivors will be required to swear or affirm that the information provided on the Form EE–2 is true.

Need: Pursuant to the EEOICPA, a claim for survivor's benefits is necessary to initiate the claims adjudication process.

Respondents and proposed frequency of response: It is estimated that 28,760 survivors annually will file one Form EE–2.

Estimated total annual burden: The time required to review instructions, search existing data sources, gather the data needed, and complete and review each Form EE–2 is estimated to take an average of 15 minutes per survivor for a total annual burden of 7,190 hours.

C. Employment History: Form EE–3 (§§ 30.102, 30.111, 30.112, 30.206, 30.213 and 30.216)

Summary: Employees and/or survivors claiming benefits under the EEOICPA must establish, among other things, an employment history that includes at least one period of covered employment. Form EE–3 has been devised to elicit the basic factual information necessary to enable OWCP to make this particular finding of fact. In Form EE–3, the respondent (the employee or survivor) is asked to provide information with respect to his or her identity and contact information, the employee's identity, and the employee's complete employment history that includes dates of employment, the name and location of employers, position titles and descriptions of work performed, and information regarding any dosimetry badges worn. All respondents will be required to swear or affirm that the information provided on the Form EE–3 is true. Further, the employment history provided on Form EE–3 will be provided to DOE for verification.

Need: Documentation of a history of covered employment is one of the elements that must be met to establish entitlement to benefits under the EEOICPA.

Respondents and proposed frequency of response: It is estimated that 68,584 employees and/or survivors annually will file one Form EE–3.

Estimated total annual burden: The time required to review instructions, search existing data sources, gather the data needed, and complete and review each Form EE–3 is estimated to take an average of 1 hour per response for a total annual burden of 68,584 hours.

D. Employment History Affidavit: Form EE–4 (§§ 30.102, 30.111, 30.112, 30.206, 30.213 and 30.216)

Summary: As noted in section C above, employees and/or survivors claiming benefits under the EEOICPA must establish, among other things, an employment history that includes at least one period of covered employment. In situations where the use of Form EE–3 may not be practicable (e.g., due to a lack of available information), Form EE–4 may be used as an alternate method to provide OWCP with a basic employment history by affidavit. In Form EE–4, the respondent (someone other than the employee or survivor) is asked to provide information as to his or her identity and relationship to the employee, the employee's identity, and the employee's employment history that includes dates of employment, name and location of employers, descriptions of work performed, and an explanation of the basis for the employment history provided. All respondents will be required to swear or affirm that the factual information provided on the Form EE–4 is true. Further, the employment history provided on Form EE–4 will be provided to DOE for verification.

Need: Documentation of a history of covered employment is one of the elements that must be met to establish entitlement to benefits under the EEOICPA.

Respondents and proposed frequency of response: It is estimated that 17,146 respondents annually will file one Form EE–4.

Estimated total annual burden: The time required to review instructions, search existing data sources, gather the data needed, and complete and review each Form EE–4 is estimated to take an average of 30 minutes per response for a total annual burden of 8,573 hours.

E. Medical Requirements: Form EE–7 (§§ 30.102, 30.207, 30.214, 30.217, 30.415, 30.416 and 30.417)

Summary: Employees and/or survivors claiming benefits under the EEOICPA (except for those who have received an award under section 5 of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note)) must also establish, among other things, that the employee sustained a compensable occupational illness. Form EE–7 has been devised to elicit the type of medical evidence (prepared by medical providers) needed to enable OWCP to make this particular finding of fact. Claimants may also be required to submit additional medical evidence (prepared by medical providers) as necessary. Form EE–7 describes, in checklist format, both the general and specific requirements for medical evidence submitted in support of a claim for each of the occupational illnesses covered by the EEOICPA.

Need: Documentation of a covered occupational illness is one of the elements that must be met to establish entitlement to benefits under the EEOICPA.

Respondents and proposed frequency of response: It is estimated that 68,584 respondents annually will file one response to Form EE–7.

Estimated total annual burden: The time required to review instructions, search existing data sources, gather the data needed, and complete and review each collection of this information is estimated to take an average of 15 minutes per response for a total annual burden of 17,146 hours.

F. Supplemental Medical Evidence (§ 30.214)

Summary: Employees and/or survivors claiming that an injury, illness or disability was sustained as a consequence of a covered cancer must submit a narrative medical report from a medical provider which shows a causal relationship between the claimed injury, illness or disability and the covered cancer. A standardized form or format will not be used for the submission of this information, which will be collected on an as-needed basis.

Need: Documentation of a consequential injury is one of the elements that must be met to establish entitlement to benefits for such a condition under the EEOICPA.

Respondents and proposed frequency of response: It is estimated that 4,500 respondents annually will submit this collection of information once.

Estimated total annual burden: The time required to review instructions, search existing data sources, gather the data needed, and complete and review each collection of this information is estimated to take an average of 15 minutes per response for a total annual burden of 1,125 hours.

G. Pre-payment Affidavit: Form EE/EN–15 (§§ 30.505 and 30.617)

Summary: Once the claims adjudication process has been completed and a final decision finding coverage under the EEOICPA has been made, the claimant must still provide information to determine if he or she is entitled to receive a lump-sum payment, and if so, the amount of such lump-sum payment. In Form EE/EN–15, the claimant is requested to provide

information about any tort suits they may have filed against a beryllium vendor or atomic weapons employer, and whether they have been convicted on fraud charges in connection with the EEOICPA or another federal or state workers' compensation law. Form EE/EN–15 also requests information on third party settlements, other eligible survivors and corrections. All respondents will be required to certify that the information provided on Form EE/EN–15 is true.

Need: Documentation of entitlement to a lump-sum payment and the level of any such payment is required under the EEOICPA.

Respondents and proposed frequency of response: It is estimated that 10,926 employees and/or survivors annually will file one Form EE/EN–15.

Estimated total annual burden: The time required to review instructions, search existing data sources, gather the data needed, and complete and review each Form EE/EN–15 is estimated to take an average of 40 minutes per response for a total annual burden of 7,284 hours.

H. Acceptance of Payment: Form EE/EN–20 (§§ 30.505 and 30.617)

Summary: After Form EE/EN–15 is returned (and a determination that the claimant is entitled to a lump-sum payment is made and the amount of such entitlement has been calculated), the claimant will be informed of the award payable under the EEOICPA and that his or her acceptance of such payment will be in full satisfaction of all claims arising out of an occupational illness covered by the EEOICPA. The ''Acceptance of Payment'' (Form EE/EN–20) has been devised for this purpose, and requests that the claimant indicate whether he or she accepts or rejects the offered payment within 60 days.

Need: Documentation of a claimant's acceptance of a lump-sum payment is necessary to establish the full satisfaction of all claims arising out of an occupational illness covered by the EEOICPA.

Respondents and proposed frequency of response: It is estimated that 10,926 employees and/or survivors annually will file one Form EE/EN–20.

Estimated total annual burden: The time required to review instructions, search existing data sources, gather the data needed, and complete and review each Form EE/EN–20 is estimated to take an average of 5 minutes per response for a total annual burden of 911 hours.

I. Medical Reimbursement: Form EE–915 (§ 30.702)

Summary: Once a claim has been accepted, the Department will pay medical benefits retroactive to the date the claim was filed. The ''Claim For Medical Reimbursement Under Energy Employees Occupational Illness Compensation Program Act'' (Form EE–915) has been devised to enable claimants to seek reimbursement for out-of-pocket expenses pertaining to the medical treatment, prescription medication, and medical supplies obtained due to an accepted occupational illness or consequential injury.

Need: Documentation of a claimant's out-of-pocket expenses is necessary to establish the amount that is payable as medical benefits for an occupational illness or consequential injury covered by the EEOICPA.

Respondents and proposed frequency of response: It is estimated that 5,095 respondents annually will file four Forms EE–915.

Estimated total annual burden: The time required to review instructions, search existing data sources, gather the data needed, and complete and review each Form EE–915 is estimated to take an average of 15 minutes per response for a total annual burden of 5,096 hours.

Total public burden: The above information collections have a total public burden hour estimate of 126,693. Using the current National minimum wage of $5.15 per hour, the total annual public cost estimate for all new information collections is estimated to be $652,469.00. There are no recordkeeping or collection costs associated with the information collected on the EE–1, EE–2, EE–3, EE–4, EE/EN–15, EE/EN–20 or EE–915. Because the medical information requested by the other two information collections is kept as a usual and customary business practice, there is no additional recordkeeping or collection cost associated with those collections. The only operation and maintenance cost will be for postage and mailing. An estimated 50% of the EE–1 and EE–2 forms will involve postage and mailing costs; the remainder will be received directly by either DOL or DOE personnel. The EE–3 form always accompanies the EE–1 or EE–2, therefore no additional postage or mailing is required. An estimated annual total of 167,612 mailed responses at $0.34 (postage) + $0.03 (envelope) per response would be $62,016.44.

Request for comments: The public is invited to provide comments on the above-noted new information collection requirements so that the Department may:

(1) Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimates of the burdens of the collections of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Send comments regarding this burden estimate, or any other aspect of this new collection of information, including suggestions for reducing this burden, to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Employment Standards Administration, Washington, DC 20503 no later than July 24, 2001.

IV. What Matters Do the Regulations Address?

Congress, in enacting the EEOICPA, created a new Energy Employees Occupational Illness Compensation Program to ensure an efficient, uniform, and adequate compensation system for certain employees of DOE, its vendors, contractors, and subcontractors, who contracted beryllium, silica, and radiation related health conditions as a result of their employment in the development of nuclear weapons. These regulations describe the process that DOL will use so that these employees, and, when applicable, their survivors, will receive the benefits provided by the EEOICPA in the efficient and uniform manner intended by Congress. The following discussion describes the regulations that will appear as 20 CFR parts 1 and 30.

20 CFR Part 1

This part is substantially the same as current part 1 (§§ 1.1 through 1.6), with the exception of the updated list of assigned functions contained in § 1.2, and is reprinted in full for the ease of the reader. This updated list of functions reflects that the Assistant Secretary for Employment Standards

has assigned the Department's responsibilities under the EEOICPA and E.O. 13179 to the Deputy Assistant Secretary for Workers' Compensation Programs.

20 CFR Part 30

Subpart A—General Provisions

This subpart briefly describes the types of benefits available under the EEOICPA and provides a summary of how the Department's regulations under the Act are organized. It also describes the effect of other general criminal and civil provisions on the EEOICPA claims process.

Introduction

Sections 30.1 and 30.2 briefly describe how the tasks involved in administering the EEOICPA have been assigned, both within the Department and among the Secretaries of Labor, Health and Human Services, and Energy, and the Attorney General, while § 30.3 summarizes how the regulations in this part are organized by subject area.

Definitions

This section of the regulation defines the principal terms used in this part. It includes terms specifically defined in the EEOICPA that, for the convenience of the user of this part, are repeated in this section. The Department seeks comments on all of the definitions used in the regulation, including, in particular, those addressed in the following paragraphs.

The § 30.5(g) definition of *benefit or compensation* includes the money DOL pays to or on behalf of a claimant as well as any other amounts paid for such things as medical treatment, monitoring, examinations, services and supplies and the transportation and other expenses incurred in securing such medical treatment. This section also distinguishes the meaning of the term ''compensation'' as it is used in EEOICPA section 3628(a)(1)—the $150,000 lump sum payment—and as it is used in EEOICPA section 3630(a)—the $50,000 lump sum payment to covered employees or their survivor(s) under section 5 of the RECA.

EEOICPA section 3630(a) describes a *covered uranium employee* as ''an individual who receives, or has received, $100,000 under section 5 of the RECA for a claim made under that Act.'' Because either an eligible employee or that eligible employee's survivor(s) may receive $100,000 under section 5 of the RECA, interpreting the word ''individual'' in the section 3630(a) definition of ''covered uranium employee'' as either an employee or that employee's survivor(s) results in having to award $50,000 to the survivor of a deceased survivor. This would create a result that does not appear to have been intended by Congress and is inconsistent with the definitions of covered beryllium employees, covered employees with cancer, and covered employees with chronic silicosis under the EEOICPA. These definitions of covered employee include only persons who are or were employees, they do not include survivors as covered employees. Such an overly literal definition of ''covered uranium employee'' in the EEOICPA is inconsistent with the purpose of the EEOICPA ''to provide for timely, uniform, and adequate compensation of covered employees and, where applicable, survivors of such employees suffering from illnesses incurred by such employees in the performance of duty * * *.'' (see EEOICPA section 3611(b)). Furthermore, the conference report on the EEOICPA also notes that section 3630 establishes ''an additional entitlement for certain uranium miners, millers, and transporters, or the survivor of any such employee if the employee is deceased, who receives, or has received, payment of a claim under the Radiation Exposure Compensation Act (42 U.S.C. 2210 note).'' H.R. Conf. Rep. No. 96–945, at 982 (2000). To avoid compensation of survivors of survivors, the Department has defined a ''covered uranium employee'' as an employee who has been determined to be entitled to compensation under section 5 of the Radiation Exposure Compensation Act, as amended, (42 U.S.C. 2210 note) for a claim made under that Act.

The EEOICPA does not define *disability* but uses that term in section 3628(a) as a qualification for entitlement to the $150,000 lump sum payment. While other federally administered workers' compensation programs define ''disability'' to require a claimant to establish a loss of wage earning capacity or permanent impairment, it is clear from Congress' description of this compensation program in EEOICPA section 3611(b), that an employee need only establish, to OWCP's satisfaction, that he or she has or has had one of the covered occupational illnesses, without establishing a loss of wage earning capacity or permanent impairment as a result of that illness. The definition of ''disability'' in § 30.5(w) reflects this Congressional intent.

The EEOICPA defines *survivor* as any individual or individuals entitled to compensation under the survivor provisions of the Federal Employees' Compensation Act (FECA), 5 U.S.C. 8133. Therefore, the definition of survivor in § 30.5(dd) identifies those individuals who would qualify as survivors of a deceased covered employee under section 8133 of the FECA. A significant feature of the FECA survivor provision is the limitation that the list of eligible individuals does not include a child over the age of 18 unless that child is a ''student'' as defined in section 8101(17) of the FECA, or is incapable of self-support. Similarly, non-dependent parents, siblings, grandparents and grandchildren do not qualify as survivors.

Information in Program Records

Sections 30.10 and 30.11 describe the Privacy Act system of records entitled DOL/ESA–49 that covers all OWCP records relating to claims filed under the EEOICPA. This system of records is both maintained by and under the control of OWCP. The records contained in DOL/ESA–49 are considered confidential and may not be disclosed except as provided by the Privacy Act of 1974. Section 30.12 describes the process that must be used to either obtain copies of or amend records contained in DOL/ESA–49.

Rights and Penalties

Section 30.16 makes reference to some of the criminal and civil proceedings that can result from filing a fraudulent or false claim or statement with OWCP in connection with a claim under the EEOICPA, and notes that the Department of Justice has the sole authority to initiate criminal proceedings. Section 30.17 sets out the Act's statutory requirement for permanent forfeiture of all benefits whenever a claimant defrauds the federal government in connection with a claim under the EEOICPA or any other federal or state workers' compensation law.

Subpart B—Filing Claims; Evidence and Burden of Proof; Special Procedures for Certain Cancer Claims

This subpart describes the early steps in OWCP's claims adjudication process and includes a general description of the evidence an employee or survivor must submit to meet his or her burden of proof. It also explains the special procedures used in the early adjudication of claims for cancer that do not involve members of the Special Exposure Cohort, which includes HHS's responsibility for calculating a reconstructed dose.

Claims for Occupational Illness—Employee or Survivor's Actions

Section 30.100 describes how an employee can file (or withdraw) a

written claim for benefits under the Act, and explains the three alternate methods that can be used to ''file'' such a claim for the purpose of establishing a commencement date for any possible entitlement to medical benefits should the claim ultimately be approved by OWCP. Since an employee's possible entitlement to any medical benefits under the Act commences on the date the written claim is filed, OWCP will choose the earliest filing date from among the three alternate methods—the date the claim is mailed to OWCP (as determined by postmark), the date the claim is actually received by OWCP, or the date the claim is actually received by DOE. Section 30.101 addresses these same topics in the context of claims of survivors.

Although use of the claim forms that appear in the list of forms contained in § 30.102 is not required to file a claim (a simple letter that contains words of claim is legally sufficient), claims should be filed using OWCP's official claim forms to ensure that all information necessary for the early stages of the claims adjudication process has been submitted. Form EE–1 (for an employee claiming for his or her own occupational illness) and Form EE–2 (for a survivor of such a deceased employee) are provided for these purposes.

Claims for Occupational Illness—Actions of DOE

In light of the broad range of employment situations that could lead to an exposure that might result in an occupational illness compensable under the Act, the Department has decided to seek the type of basic factual information that an employer would otherwise provide to OWCP from DOE. Therefore, § 30.105 indicates that DOE will have the responsibility to either concur or disagree (or indicate that it lacks sufficient information to either concur or disagree) with the employment history submitted by the employee in support of his or her claim. DOE will also be responsible for helping employees establish, through alternate methods, the necessary factual basis to support their employment histories when the usual documentary evidence is not available. Section 30.106 addresses these same DOE responsibilities in the context of claims of survivors.

Evidence and Burden of Proof

Section 30.110 lists the four classes of individuals who are entitled to compensation under sections 3623, 3627 and 3630 of the EEOICPA, and § 30.111 describes the burden of proof on these individuals to establish their entitlement to benefits under the Act. While every claimant must establish eligibility by a preponderance of the evidence, section 30.111(c) permits the use of written affidavits or declarations as evidence of employment history or survivor relationship where the claimant attests that actual records on these matters do not exist. DOL further assists claimants in the development of their claims by notifying the claimant of any deficiency and providing an opportunity for correction of the deficiency (section 30.111(b)).

Special Procedures for Certain Cancer Claims

E.O. 13179 assigns the ''primary responsibility for administering'' the compensation program to the Secretary of Labor. However, a portion of the adjudication process of claims for cancer that do not involve employees who are members of the Special Exposure Cohort (or a survivor of such an employee) is assigned to HHS. Accordingly, § 30.115 indicates that if OWCP determines that such an employee (or a survivor of such an employee) has established that he or she contracted cancer after beginning covered employment, OWCP will refer the claim to HHS for dose reconstruction. This package will include, among other things, any employment history compiled by OWCP. It will not, however, constitute a recommended or final decision by OWCP on the claim.

After completing such further development of the employment history as it may deem necessary, HHS will reconstruct the radiation dose and notify the claimant directly of its findings. At the same time, HHS will also inform OWCP of its findings regarding the radiation dose, at which point OWCP will resume adjudication of the claim (based on the reconstructed dose calculated by HHS) and determine whether the claimant has met the eligibility criteria set forth in subpart C.

Subpart C—Eligibility Criteria

Eligibility Criteria for Claims Relating to Covered Beryllium Illness

Section 30.205 describes the criteria, set forth in sections 3621(7) and 3621(8) of the EEOICPA, that a claimant must satisfy to qualify for compensation for a covered beryllium illness—that he or she was (or is a survivor of) a ''covered beryllium employee'' who has a covered beryllium illness. Consistent with other federally administered workers' compensation laws, this section also provides compensation (medical benefits only) for any injury, illness, impairment, or disability sustained as a consequence of a covered beryllium illness.

To establish the status as a ''covered beryllium employee,'' a claimant may submit any trustworthy contemporaneous record that establishes proof of employment or presence at a covered facility during a period when beryllium dust, particles or vapor was present (§ 30.206(a)). Section 30.206(b) describes the type of records that may be considered as evidence of employment or presence at a covered facility. Section 30.207 describes the type of medical evidence required to establish beryllium sensitivity and chronic beryllium disease as set forth in sections 3621(8) and 3621(13) of the EEOICPA, and explains the claimant's burden in establishing a consequential injury or illness.

Eligibility Criteria for Claims Relating to Cancer

Section 30.210 describes the two types of employees with cancer for whom the EEOICPA provides compensation. To be eligible for compensation for cancer, an employee either must be: (1) A member of the Special Exposure Cohort (SEC) who was a DOE employee, a DOE contractor employee, or an atomic weapons employee who contracted a specified cancer after beginning such employment; or (2) a DOE employee, a DOE contractor employee, or an atomic weapons employee who contracted cancer (that has been determined, pursuant to guidelines promulgated by HHS, ''to be at least as likely as not related to such employment''), after beginning such employment. Consistent with other federally administered workers' compensation laws, this section also provides compensation (medical benefits only) for any injury, illness, impairment, or disability sustained as a consequence of a covered cancer.

Section 30.213(a) describes the criteria set out in section 3621(14) of the EEOICPA for establishing eligibility as a member of the SEC. To satisfy the EEOICPA requirement that an eligible employee must have worked at a designated gaseous diffusion plant for a number of workdays aggregating at least 250 workdays before February 1, 1992, § 30.213(b) allows the claimant to aggregate the days of service at more than one gaseous diffusion plant. Section 30.213(c) describes the type of evidence a claimant may submit to establish his employment with a covered employer under this section. A written medical report that includes a

diagnosis and the date of diagnosis is sufficient to establish either a specified cancer, in the case of SEC members, or cancer for other covered employees, under § 30.214(a). Section 30.214(b) describes the medical evidence required to establish an injury or disease that occurs as a consequence of a covered cancer.

Eligibility Criteria for Chronic Silicosis

Section 30.215 sets forth the EEOICPA section 3627 requirements for entitlement to compensation for chronic silicosis. To be eligible for benefits, the employee must establish employment with the DOE or with a DOE contractor and presence for a number of work days aggregating at least 250 work days during the mining of tunnels at a DOE facility located in Nevada or Alaska, which were used for atomic weapon tests or experiments. Section 30.216(c) allows the claimant to aggregate the days of service at more than one qualifying site. The employee must have been diagnosed with chronic silicosis, supported by medical evidence set forth in § 30.217.

Eligibility of Certain Uranium Employees

Section 30.220 describes how beneficiaries of $100,000 under section 5 of the RECA establish entitlement to an additional $50,000 and medical benefits provided by section 3630 of the EEOICPA. Since RECA claimants may receive payment under RECA in the form of a promise to pay at a future date, the Department has interpreted the requirement in section 3630 of the Act that a claimant ''receives or has received $100,000'' under RECA to include claimants who receive or have received a promise of subsequent payment.

Subpart D—Adjudicatory Process

This subpart describes the adjudicatory process OWCP will follow when it issues decisions on claims under the Act. It contains information about filing objections following a recommended decision and requesting a hearing before OWCP's Final Adjudication Branch (FAB), and describes the manner in which the FAB will issue decisions on claims after a hearing, a review of the written record, or on a summary basis. This subpart also indicates when decisions of the FAB will become final, and describes the process whereby OWCP may exercise its discretion to modify a final decision, either on its own motion or upon the motion of a claimant.

Recommended Decisions on Claims

Sections 30.305 through 30.307 contain a basic description of a ''recommended'' decision on a claim, which will contain both findings of fact and conclusions of law, as appropriate. These sections also describe the general process OWCP will use when it issues a recommended decision, and indicate to whom OWCP will send the recommended decision. It is important to recognize that a recommended decision does not constitute a final decision by OWCP on a claim; instead, it only represents an initial recommendation made by an OWCP claims examiner. Therefore, since a recommended decision will not be OWCP's final decision on a claim under the EEOICPA, a claimant may not seek review of such decision in federal court.

Hearings and Final Decisions on Claims

Section 30.310 indicates that when the district office issues a recommended decision on a claim, it will also forward the record of such claim to the FAB, whether the recommended decision was favorable or unfavorable to the claimant. Within 60 days of the date the district office issues the recommended decision (unless this period is extended by the FAB), the claimant must object to specific findings of fact and/or conclusions of law contained in the recommended decision to trigger either a hearing (upon specific request) or a review of the written record by the FAB. In the absence of any specific objections, § 30.311(a) provides that the FAB will summarily affirm the recommended decision without conducting any further review of such decision. The Department believes that bringing the claims adjudication process to an end when a claimant does not raise any specific objections is appropriate, even if the claimant asks for a hearing, since the expenditure of administrative resources needed to conduct further review of a claim under these circumstances will most likely serve no useful purpose given the non-adversarial nature of the claims adjudication process. Section 30.311(b) provides that the FAB will also summarily affirm the recommended decision, in whole or in part, if the claimant waives any objection to all or part of such decision.

If a claimant files specific objections to a recommended decision with the FAB, but does not request a hearing on his or her claim, § 30.312 states that the FAB will consider the objections by means of a review of the written record of the claim. If the claimant only objects to a part of the recommended decision (for example, the claimant objects to OWCP's rejection of the claim with respect to one occupational disease, but does not object to OWCP's acceptance of the claim for a different occupational disease), this section notes that the FAB has the discretionary authority to issue a decision summarily affirming the uncontested part, if such action is appropriate. Section 30.313 describes the process a FAB reviewer will follow when he or she conducts a written review of the record, which provides for the submission of additional evidence or argument from the claimant, or at the request of the FAB reviewer.

If the claimant files objections and requests a hearing within the 60-day period referred to above, § 30.314 sets out the general procedural framework that a FAB reviewer will follow through the completion of the informal hearing process. This section describes a FAB reviewer's wide discretion in matters of scheduling and in the conduct of the hearing itself. Consistent with the provision in § 30.312 allowing partial decisions, § 30.314 also provides that if the claimant only objects to a part of the recommended decision, a FAB reviewer has the discretionary authority to issue a decision that summarily affirms the uncontested part. Section 30.315 completes the description of the hearing process by indicating that a claimant may only postpone a scheduled hearing in certain limited circumstances, and if the hearing cannot be rescheduled in such a way as to prevent delay, a review of the written record will be conducted instead. It also indicates that a claimant may request a change to a review of the written record at any time after requesting a hearing, and that once such a change is made, no further opportunity for a hearing will be provided.

The varied processes by which the FAB issues decisions on claims (or parts of claims) are described in § 30.316. Subsection (a) provides for summary affirmance (in whole or in part) of a recommended decision when no specified objections have been raised, subsection (b) provides for the issuance of a decision on a claim at the conclusion of either a hearing or a review of the written record, and subsection (c) provides for the automatic affirmance of any recommended decision that is pending either a hearing or a review of the written record at the FAB for more than one year. Subsection (d) indicates that decisions of the FAB issued pursuant to § 30.316(a), (b) or (c) will become final upon expiration of 30 days from the date they are issued, unless the claimant files a timely request for reconsideration

under § 30.319, and subsection (e) indicates to whom the FAB will send its decision. Section 30.317 further provides that at any point in time prior to issuing a decision on a claim, the FAB may request that a claimant submit additional evidence or argument and may, in the exercise of its discretion, remand a claim to the district office for further development without issuing a decision under § 30.316.

Finally, § 30.319 sets out the process whereby a claimant may request reconsideration of a decision of the FAB before such decision becomes final, and notes that if the request is granted, the FAB will review the district office's recommended decision again and issue a new decision on the claim without holding a hearing. This section also points out that if the FAB denies the request for reconsideration, the decision at issue will become final on the date the request is denied. In § 30.319(c), the Department describes the point at which a decision on a claim under the EEOICPA becomes final for purposes of seeking judicial review, which occurs when all administrative review opportunities have been exhausted.

Modification

In order to accommodate those rare instances when OWCP may wish to reopen a final decision of the FAB, § 30.320 describes OWCP's discretionary authority to modify such a decision at any time on its own motion. This section also provides that a claimant can move for modification within one year of the date the FAB decision became final, provided that he or she can establish a mistake of fact in the final decision or changed circumstances. If OWCP determines that modification is warranted, this section notes that it may issue a new recommended decision modifying the prior final decision on a claim. It also notes that while any new recommended decision issued on modification will be subject to the adjudicatory process described in subpart D, the scope of review at the FAB will be limited to the merits of the new recommended decision; OWCP's discretionary determination to modify the prior final decision will not be reviewable. Subsection (c) completes the description of the adjudicatory process by noting that the time limitations in § 30.320 will not prevent a claimant from filing another claim for a new occupational disease or consequential injury not already considered by OWCP, and that regardless of the number of claims OWCP accepts, no claimant can receive more than one award of monetary compensation under sections 3628(a)(1) or 3630(a) of the Act.

Subpart E—Medical and Related Benefits

This subpart contains a description of the medical benefits that are provided to employees under the EEOICPA, the general rules for obtaining medical care, and information regarding an employee's initial choice of physician. It also describes the manner in which OWCP may direct an employee to be examined by another physician of its choosing, and how OWCP resolves conflicts in the medical evidence that may arise as a result of such an examination. Finally, subpart E describes the general requirements for medical reports to be submitted to OWCP, and the process to be used by employees to seek reimbursement for medical expenses they have paid.

Medical Treatment and Related Issues

Section 30.400 reflects the basic entitlement to medical benefits contained in section 3629 of the Act, including the provision that an employee's entitlement to such benefits commences upon the date the claim is filed. This section also indicates that medical treatment that was provided to an employee who dies before the claim is accepted will be paid for if the claim is accepted, as long as such treatment was provided on or after the date the employee filed his or her claim. Section 30.400 indicates that any qualified medical provider may provide appropriate services, appliances and supplies.

Consistent with OWCP's definition of ''physician'' set out in subpart A, which is the same as the definition set forth in section 8101(2) of the FECA, §§ 30.401 and 30.402 describe the special rules that will apply to medical services provided by chiropractors and clinical psychologists. Generally, chiropractors are limited to providing treatment to correct a spinal subluxation, and a diagnosis of spinal subluxation as demonstrated by x-ray to exist must appear in the chiropractors report before payment of the bill will be considered. Clinical psychologists cannot serve as physicians for conditions that include a physical component unless they are authorized to do so under the applicable state law.

Section 30.403 indicates that the personal care services of a home health aide, licensed practical nurse or similarly trained individual will be paid for as a medical benefit, so long as such services are medically necessary. In addition, § 30.404 indicates that transportation and other reasonable and necessary expenses needed to obtain authorized medical treatment will be paid for as a medical benefit.

Since section 3629(b)(2) of the Act specifically provides employees with the right to select an initial treating physician, § 30.405 indicates that OWCP will provide them with an opportunity to designate a treating physician when it accepts the claim. The physician so selected can refer the employee to a specialist without first seeking approval from OWCP, but in all other situations the employee must make a written request to OWCP before he or she changes treating physicians.

Directed Medical Examinations

On occasion, OWCP may need to have an employee examined by a physician of its own choosing for a second opinion. Section 30.410 addresses this need (in a manner consistent with OWCP's practices under section 8123 of the FECA) and indicates that an employee may not have anyone else present at the examination, other than a physician paid by him or her, unless OWCP decides that exceptional circumstances exist. This section also indicates that where an actual examination is not needed, OWCP may send the case file for a second opinion review.

Also consistent with section 8123 of the FECA, § 30.411 describes what OWCP will do once it receives the report from the second opinion physician. OWCP will base its determination on entitlement on the report that has greater probative value, unless there is a conflict in the medical evidence between the second opinion physician and the employee's physician. A conflict only occurs when two reports of virtually equal weight and rationale reach opposing conclusions. When this occurs, OWCP will appoint a third physician to make a referee examination, and the report of this physician will be entitled to special weight sufficient to resolve the conflict if it has sufficient probative value. An employee may not have anyone else present at the referee examination, unless OWCP decides that exceptional circumstances exist, and OWCP may send the case file for review by a referee physician if an actual examination is not needed.

Section 30.412 indicates that the costs of the directed medical examinations described in §§ 30.410 and 30.411 will be paid for out of the fund as medical benefits. In addition, OWCP will reimburse the employee for necessary and reasonable expenses incident to such directed medical examinations out of the fund.

Medical Reports

Section 30.415 contains a general description of what a medical report submitted to OWCP from an attending physician should contain, and § 30.416 indicates that Form EE–7 should be used as a guide in the preparation of medical reports. For cases requiring hospital treatment or prolonged care, § 30.417 indicates that periodic narrative reports from the attending physician are required, and that OWCP may ask the physician to respond to questions regarding continuing medical treatment for the accepted occupational illness.

Medical Bills

Medical providers should submit medical bills directly for payment out of the compensation fund. However, in those instances where an employee pays a medical bill and claims for reimbursement out of the fund, § 30.420 refers the employee to the itemized bill procedures described in § 30.702, while § 30.421 sets out the standard industry practice of requiring submission of medical bills by the later of the end of the calendar year after the year the expense was incurred, or the end of the calendar year after the year OWCP accepted the claim.

Since the OWCP fee schedule sets maximum limits on amounts payable for many medical services, § 30.422 notes that an employee may be only partially reimbursed for medical expenses because the amount he or she paid exceeds the maximum allowable charge. When this happens, OWCP will advise the employee of his or her responsibility to ask the provider to refund the excess charge paid to the employee, or to credit the employee's account. If the provider refuses to do so, OWCP may authorize reasonable reimbursement to the employee after reviewing the facts and circumstances involved.

Subpart F—Survivors; Payments and Offsets; Overpayments

Survivors

Sections 30.500 through 30.502 address the identification of persons entitled to receive monetary compensation based on their relationship to a deceased covered employee under the Act. The class of persons who may be a ''survivor'' under the EEOICPA is taken from section 8133 of the FECA, as required by section 3621(18) of the EEOICPA. Any reference to section 8133 of the FECA is solely for the purpose of identifying the individuals who may be survivors under EEOICPA. Section 8109 of the FECA provides the order of precedence and proportion of monetary compensation to be paid to the eligible surviving beneficiaries, if any, under sections 3628(e)(2) and 3630(e)(2) of the EEOICPA. These regulations specifically detail who may be entitled to receive compensation based upon their survivor status. It should be noted that widows, widowers and minor children are the only persons who need not be dependent upon the deceased covered employee to receive monetary compensation as a survivor. The remaining persons, who may be survivors under section 8133 of FECA, must have been ''dependent'' upon the deceased covered employee at his or her time of death. The result of this provision is that adult children of deceased covered employees, as well as other remaining family members, such as ''non-dependent'' parents, siblings, grandparents or grandchildren, will not be eligible to receive any monetary compensation under this Act. Finally, OWCP will take all necessary steps to determine the identity and correct amount of compensation to be paid to each and every eligible surviving beneficiary.

Payments and Offsets

Sections 30.505 through 30.507 address the rules for the payment of monetary compensation to claimants under the EEOICPA. No vested right exists to receive compensation under the EEOICPA, thus claimants must be alive to receive the compensation for which they filed a claim. In cases where the claimant is deceased, OWCP will pay the eligible surviving beneficiaries or their legal guardian, if any. In making payment on a claim OWCP will take all necessary and reasonable steps in determining the entitlement and identity of the claimant and/or the eligible surviving beneficiaries related to a claim for benefits, as well as any offset required by section 3641 of the EEOICPA to such an amount awarded. OWCP will attempt to ensure that the correct person will receive payment in the correct amount by reserving the right to conduct any investigation, including requiring any claimant or eligible surviving beneficiary to provide or execute an affidavit, record or document, or authorize the release of any information deemed necessary for purposes of payment. No payment will be processed unless an ''Acceptance of Payment'' form is signed and returned by the beneficiary. Furthermore, any failure by the claimant or eligible surviving beneficiary to cooperate with an investigation or provide information to OWCP may be deemed a rejection of the payment, unless the claimant or eligible surviving beneficiary does not have the legal authority to provide, release or authorize access to the requested information or documents. Any rejected compensation payment, or shares of compensation payment, will not be distributed to the remaining eligible surviving beneficiaries, rather, the payment will be returned to the Fund. With respect to the ''offset'' provisions within § 30.505, OWCP is requiring claimants and eligible surviving beneficiaries who receive money awards or settlements based on injuries suffered, for which they have also filed a claim under the EEOICPA, to declare such amounts received for purposes of subtracting that amount from the total award to be paid on the EEOICPA claim. For purposes of OWCP's offset calculations, such claims as state workers' compensation benefits, life insurance or health insurance contracts will not be included in the analysis. The provisions in this section concerning multiple payments are set forth to provide notice to claimants and survivors that a covered employee's injuries due to any of the occupational illnesses recognized under the EEOICPA give rise to only one lump-sum payment of monetary compensation per covered employee. However, a claimant who is a covered employee and who also qualifies as an eligible surviving beneficiary may receive more than one payment; similarly, an eligible surviving beneficiary may receive payment or a portion of a payment each time he or she qualifies as an eligible surviving beneficiary.

Finally, the provisions in §§ 30.505 and 30.506 regarding ''beryllium sensitivity'' make clear that no lump-sum monetary compensation will be paid for such illness, rather ''monitoring'' will be the form of compensation afforded to such covered employees in accordance with section 3628(a)(2) of the Act. Monitoring shall consist of regular medical examinations and diagnostic testing to determine if the covered employee has developed ''established chronic beryllium disease.'' Once the individual develops and has diagnosed the established chronic beryllium disease, he or she may then submit evidence of such diagnosis to OWCP and request appropriate benefits under the EEOICPA.

Overpayments

Sections 30.510 through 30.513 detail the process of how OWCP will identify and pursue collection of overpayments of compensation for purposes of the EEOICPA. These sections have been written to highlight and clarify OWCP's

process to identify, notify, resolve and collect any overpayments made to EEOICPA beneficiaries. Specifically, OWCP will notify each recipient of any compensation payment by including with each check a narrative description indicating the reasons for payment. For those payments sent via electronic funds transfer (EFT) clear notification of the date and amount of payment will appear on the recipient's bank statement. When OWCP initially identifies an overpayment it will notify the recipient of its existence and attempt to clarify and resolve the dispute through an informal process. Specifically, OWCP will notify the beneficiary of the overpayment and allow the beneficiary 30 days to submit comments in writing and documentation contesting the overpayment. Upon the end of that 30-day period, OWCP will notify the beneficiary of its determination of whether a debt is owed to OWCP. If this informal process fails to resolve the dispute, OWCP will then advise the recipient of its intentions to collect the overpayment using the Department's debt collection procedures set forth in 29 CFR part 20. Finally, if the Department's own procedures fail to procure the repayment of the debt, such overpayment is subject to the provisions of the Federal Claims Collection Act of 1996 (as amended) and the debt may be referred to the Department of Justice, or a debt collection agency.

Subpart G—Special Provisions

This subpart addresses some additional matters that can arise in connection with a claim under the EEOICPA. It contains provisions describing representation of claimants before OWCP and also describes the subrogation rights the United States has upon payment of compensation under the Act, as well as the statutory election of remedies for claimants who file tort suits against beryllium vendors or atomic weapons employers.

Representation

Section 30.600 notes that while the claims process established by this part is informal and non-adversarial, a claimant may appoint one individual at a time to represent his or her interests before OWCP. Such appointments must be in writing, and OWCP will only recognize one individual at a time as the duly appointed representative for the claimant. Section 30.601 sets out the legal restrictions on who may serve as a representative, and when a federal employee can be appointed to act as a claimant's representative. Finally, § 30.602 indicates that the claimant is solely responsible for paying any representative's fee for services and costs associated with the representation; OWCP is in no way liable for any portion of the representative's fee. EEOICPA section 3648 limits the attorneys fees that can be charged a claimant and provides a $5000 fine for exceeding those limits. Since DOJ is responsible for deciding whether to seek the imposition of a fine, the Department defers to DOJ's interpretation of the statutory limitation.

Third Party Liability

Section 3642 of the Act provides that upon payment of compensation to a claimant, the United States is subrogated to any right or claim that the claimant may have on account of his or her injuries, for the amount of such payment of compensation. Sections 30.605 through 30.611 describe the manner in which the United States will exercise this statutory authority. These sections require claimants who have received EEOICPA benefits to inform OWCP if they receive money or other property as a result of a settlement or judgment related to their claims, and provide advice regarding the method of valuing structured settlements and the amount to which the United States is subrogated. These sections also note that a settlement or judgment received as a result of allegations of medical malpractice in treating an illness covered by the EEOICPA is a recovery that must be reported to OWCP, while payments to an employee or eligible surviving beneficiary as a result of an insurance policy which the employee or eligible surviving beneficiary has purchased is not. They also provide guidance on how the amount paid on a single EEOICPA claim is attributed to different conditions for purposes of calculating the amount to which the United States is subrogated.

Election of Remedy Against Beryllium Vendors and Atomic Weapons Employers

Based on the explicit language of section 3645 of the EEOICPA, §§ 30.615 and 30.616 describe the severe limitations on the receipt of compensation under the Act that arise when a claimant files a tort suit against either a beryllium vendor or an atomic weapons employer. Section 30.615 provides that if a claimant filed such a tort suit on or prior to October 30, 2000, he or she will not be eligible to receive compensation unless the suit is dismissed no later than December 31, 2003.

Section 30.616 notes that if a claimant files such a tort suit after October 30, 2000, he or she will not be eligible to receive compensation unless the suit is dismissed no later than April 30, 2003, or 30 months after the date the claimant first became aware that his or her illness may be connected to the exposure covered by the EEOICPA, whichever is later. If a claimant files such a tort suit after the later of either April 30, 2003, or 30 months after the date the claimant first became aware that his or her illness may be connected to the exposure covered by the EEOICPA, he or she also will not be entitled to any benefits under subtitle B of the EEOICPA. For both of these provisions, ''the date the claimant first became aware'' will be deemed to be the date he or she received either a reconstructed dose from HHS, or a diagnosis of a covered beryllium illness, as applicable.

Section 30.617 indicates that prior to authorizing any payment under § 30.505, OWCP will require the claimant or each surviving beneficiary to execute and provide an affidavit showing whether he or she complied with the filing and dismissal requirements of §§ 30.615 or 30.616, if applicable. This section also authorizes OWCP to require the submission of supporting evidence to confirm the particulars of any affidavit provided thereunder.

Subpart H—Information for Medical Providers

This subpart contains the information that will be needed by medical providers of services and supplies to employees with approved claims under the EEOICPA. It also contains the rules for the submission of medical bills from providers and employees, and describes the fee schedule OWCP will apply to charges for certain medical procedures and services. The process described in this subpart is similar to that used by medical providers submitting bills for services provided to claimants under other federal programs, including the FECA program administered by OWCP.

Medical Records and Bills

Section 30.701 sets out the process medical providers must follow when they submit bills for medical and surgical treatment, appliances or supplies furnished to employees, except for treatment and supplies provided by nursing homes. The provider must itemize the charges on the standard Health Insurance Claim Form, HCFA 1500 or OWCP 1500 (for professional charges), the UB–92 (for hospitals), or the Universal Claim Form (for pharmacies), identify each service performed using the Physician's Current Procedural Terminology (CPT) code, the

Health Care Financing Administration Common Procedure Coding System (HCPCS) code, the National Drug Code (NDC), or the Revenue Center Code (RCC), and state each diagnosed condition and furnish the corresponding diagnostic code using the ''International Classification of Disease, 9th Edition, Clinical Modification'' (ICD–9–CM).

Hospitals must submit charges for medical and surgical treatment or supplies on the UB–92 and identify each outpatient radiology service, outpatient pathology service and physical therapy service performed using HCPCS/CPT codes with a brief narrative description. Other outpatient hospital services for which HCPCS/CPT codes exist must also be coded individually using the coding scheme noted in § 30.701. Services for which there are no HCPCS/CPT codes available may be identified using the RCCs described in the current edition of the ''National Uniform Billing Data Elements Specifications.'' The hospital must also furnish the diagnostic code using the ICD–9–CM, and if outpatient hospital services include surgical and/or invasive procedures, the hospital must code each procedure using the proper CPT/HCPCS codes and furnishing the corresponding diagnostic codes using the ICD–9–CM.

Pharmacies must itemize charges for prescription medications, appliances, or supplies on the Universal Claim Form. Bills for prescription medications must include the NDC assigned to the product, the generic or trade name of the drug provided, the prescription number, the quantity provided, and the date the prescription was filled. Nursing homes must itemize charges for appliances, supplies or services on the provider's billhead stationery.

Section 30.701(d) expressly indicates that by submitting a bill and/or accepting payment, the provider signifies that the service for which payment is sought was performed as described and was necessary. The provider also agrees to comply with the provisions of subpart H that address the rendering of treatment and/or the process for seeking reimbursement for medical services, including the limitation imposed on the amount to be paid for such services.

Section 30.702 describes the similar process to be followed by employees seeking reimbursement. If an employee has paid bills for medical, surgical or other services, supplies or appliances due to an accepted occupational illness, he or she should submit an itemized bill on the HCFA 1500 or OWCP 1500. The provider of such service must list each diagnosed condition and furnish the applicable ICD–9–CM code, and identify each service performed using the applicable HCPCS/CPT code. The bill must be accompanied by evidence that the employee paid the provider for the service and a statement of the amount paid. Copies of bills will not be accepted for reimbursement unless they bear the original signature of the provider, with evidence of payment.

An employee will be only partially reimbursed for a medical expense if the amount he or she paid to a provider for the service exceeds the maximum allowable charge set by OWCP's schedule. If this happens, OWCP will advise the employee of the maximum allowable charge for the service in question, and that it is his or her responsibility to ask the provider to refund the amount paid that exceeds the maximum allowable charge. If the provider does not comply with this request within 60 days, OWCP will begin the process of excluding the provider from further participation in the program. OWCP also has the discretion to authorize reimbursement to the employee for the excess amount.

The time limitation that will apply to payment of medical bills submitted by both providers and employees is described in § 30.703. This section provides that no bill will be paid if it is submitted more than one year beyond the end of the calendar year in which the expense was incurred or the service or supply was provided, or more than one year beyond the end of the calendar year in which the employee's claim was first accepted as compensable by OWCP, whichever is later.

Medical Fee Schedule

Sections 30.705 through 30.710 describe the cost containment methods that will be used when payment is made for medical and other health services furnished by physicians, hospitals and other providers. These methods will not be applied to charges for non-medical services provided in nursing homes, or to charges for appliances, supplies, services or treatment furnished by medical facilities of the U.S. Public Health Service or the Departments of the Army, Navy, Air Force and Veterans Affairs.

For professional medical services, OWCP will maintain a schedule of maximum allowable fees for procedures performed in a given locality. The fee schedule consists of an assignment of a value to procedures identified by HCPCS/CPT code representing the relative skill, effort, risk and time required to perform the procedure, an index based on a relative value scale that considers skill, labor, overhead, malpractice insurance and other related costs, and a monetary value assignment (conversion factor) for one unit of value in each of the categories of service. Generally, payment for a listed procedure will not exceed the amount derived by multiplying the relative values for that procedure by the geographic indices for services in that area and by the dollar amount assigned to one unit in that category of service. However, where the time, effort and skill required to perform a particular procedure vary widely from one occasion to the next, OWCP may choose not to assign a relative value to that procedure and instead make individual determinations of the amount to be paid. OWCP may also set fees without regard to schedule limits for specially authorized consultant examinations, directed medical examinations, and other specially authorized services.

Payment for medicinal drugs prescribed by physicians may not exceed the amount derived by multiplying the average wholesale price of the medication by the quantity or amount provided, plus a dispensing fee. All prescription medications identified by NDC will be assigned an average wholesale price representing the product's nationally recognized wholesale price as determined by surveys of manufacturers and wholesalers. OWCP will establish the dispensing fee. Payment for inpatient medical services will be made using condition-specific rates based on the Prospective Payment System devised by HCFA (42 CFR parts 412, 413, 424, 485, and 489). Using this system, payment is derived by multiplying the diagnosis-related group weight assigned to the hospital discharge by the provider-specific factors.

Sections 30.711 through 30.713 describe the process that will be followed when a fee for a billed procedure or cost is reduced, and what the medical provider can do following such a reduction. If the charge submitted exceeds the maximum amount according to the schedule, payment will be made in the amount allowed by the schedule for that service and the provider will be notified that payment was reduced in accordance with the schedule. The provider will have 30 days to request reconsideration of the fee determination by the district office with jurisdiction over the employee's claim. OWCP will only reevaluate the paid amount if the request is accompanied by evidence showing that the code incorrectly identified the procedure, that the presence of a severe or concomitant medical condition made treatment

especially difficult, or that the provider possessed unusual qualifications (board certification in a specialty is not sufficient evidence of unusual qualifications). Within 30 days of receiving the request, the district office will respond stating whether or not an additional amount will be allowed. If the district office continues to disallow the contested amount, the provider may apply to the Regional Director of the region with jurisdiction over the district office within 30 days. Within 60 days of an application, the Regional Director will issue a decision whether or not an additional amount will be allowed. A provider whose fee is partially paid may not request reimbursement from the employee for additional amounts.

Exclusion of Providers

Sections 30.715 through 30.726 describe the procedures OWCP will use to exclude providers from payment under this subpart to protect the EEOICPA program from fraud and abuse. After completing such inquiry he or she deems appropriate, the Regional Director may initiate the process of excluding the provider from participation in the EEOICPA program. The Regional Director begins the process by sending the provider a letter, by certified mail and with return receipt requested, containing a statement of the grounds upon which exclusion will be based, a summary of the information the Regional Director relied on in reaching an initial decision that exclusion proceedings should begin, an invitation to the provider to either resign voluntarily from participation in the EEOICPA program or to request a decision on exclusion, a notice of the provider's right to request a formal hearing before an administrative law judge, and a notice that if the provider fails to answer the letter of intent within 30 days, the Regional Director may deem the allegations it contains to be true and may order exclusion of the provider without conducting any further proceedings. If the provider submits an answer, the Regional Director will issue a written decision and will send a copy of the decision to the provider by certified mail, return receipt requested. The decision will advise the provider of his or her right to request, within 30 days of the date of the decision, a formal hearing before an administrative law judge.

Any request for a hearing must identify the issues to be addressed and must include any request for a more definite statement by OWCP, any request for the presentation of oral argument or evidence, and any request for a certification of questions concerning professional medical standards, medical ethics or medical regulation for an advisory opinion from a competent recognized professional organization or federal, state or local regulatory body. The Chief Administrative Law Judge of the Department of Labor will assign the matter for an expedited hearing, and the administrative law judge assigned to the matter will consider the request for hearing, act on all requests therein, and issue a Notice of Hearing and Hearing Schedule for the conduct of the hearing. To the extent appropriate, proceedings before the administrative law judge will be governed by 29 CFR part 18. At the conclusion of the hearing, the administrative law judge will issue a written decision and serve it on all parties to the proceeding, their representatives and OWCP. An aggrieved party may, within 30 days of the issuance of such decision, file a petition for discretionary review with the Director for Energy Employees Occupational Illness Compensation on one or more of the following grounds: a finding or conclusion of material fact is not supported by substantial evidence; a necessary legal conclusion is erroneous; the decision is contrary to law or to the duly promulgated rules or decisions of OWCP; a substantial question of law, policy, or discretion is involved; or a prejudicial error of procedure was committed. If a petition is granted, review will be limited to the questions raised by the petition, and a petition not granted within 20 days after receipt of the petition is deemed denied.

After completing the exclusion process, OWCP will notify all district offices, the HCFA, and all employees who are known to have had treatment, services or supplies from the excluded provider within the six-month period immediately preceding the order of exclusion. However, OWCP will not refuse to reimburse an employee for otherwise reimbursable medical treatment, services or supplies if they were rendered in an emergency, or if the employee could not reasonably have been expected to have known of the exclusion. When an employee is notified that his or her attending physician has been excluded, OWCP will provide the employee with an opportunity to select a new attending physician. An excluded provider may apply for reinstatement one year after the exclusion, unless the order provides for a shorter period. An application for reinstatement must be addressed to the Director for Energy Employees Occupational Illness Compensation, and contain a statement of the basis for the application. The Director for Energy Employees Occupational Illness Compensation will only order reinstatement where reinstatement is clearly consistent with the goal of this subpart to protect the EEOICPA program against fraud and abuse. To satisfy this requirement the provider will have to provide reasonable assurances that the basis for the exclusion will not be repeated.

V. Statutory Authority

Section 3611 of the Energy Employees Occupational Illness Compensation Program Act provides the general statutory authority, which Executive Order 13179 allocates to the Secretary, to prescribe rules and regulations necessary for the administration and enforcement of the Act. Sections 3629 and 3630 provide specific authority regarding medical treatment and care, including determining the appropriateness of charges. The Debt Collection Act of 1982, as amended, authorizes imposition of interest charges and collection of debts by withholding funds due the debtor.

VI. Executive Order 12866

This rule is being treated as a ''significant regulatory action,'' within the meaning of Executive Order 12866, because it is economically significant, as defined in section 3(f)(1) of E.O. 12866. The payment of the benefits provided for by the EEOICPA, through the program administered pursuant to this regulatory action will have an annual effect on the economy of $100 million or more. However, the rule will not adversely affect in a material way the economy, a sector of the economy, productivity, jobs, the environment, public health or safety, or State, local, or tribal governments or communities, as required by section 3(f)(1) of E.O. 12866. The proposed rule is also a ''significant regulatory action'' because it meets the criteria of Section 3(f)(4) of that Order in that it raises novel or legal policy issues arising out of the legal mandate established by the EEOICPA.

Based upon the factors and assumptions set forth below, DOL's estimate of the aggregate cost of benefits and administrative expenses of this regulatory action implementing the EEOICPA is, in millions of dollars (estimates for FY2003, FY2004 and FY2005 are preliminary and will be reviewed during the budget formulation process):

	FY2001	FY2002	FY2003	FY2004	FY2005
Admin.	$50	$136	$100	$55	$50
Benefits	358	597	477	253	222

The Department's estimate of the benefits to be paid pursuant to the EEOICPA and of its administrative costs of providing those benefits is based on data collected from other Federal agencies, assumptions regarding the incidence of cancer, beryllium disease and silicosis in the covered population, life expectancy tables, and its experience in estimating administrative and medical costs of workers' compensation programs. Specifically, benefit estimates for cancer claims are based on figures provided by DOE concerning the number of DOE/contractor employees, known cancer incidence and survival rates in the general population obtained from the National Cancer Institute. Based on the number of claims likely to be accepted, the cost of lump-sum payments to these claimants is relatively easily determined. These benefit estimates further reflect contemplated medical costs of $1500 per year for 90% of the covered claimants, while the remaining 10% incur $125,000 medical costs for the year because they are undergoing intensive in-hospital medical treatment.

Benefits estimates for beryllium exposure are based on known incidence rates, known numbers of claimants with beryllium disease, exposed population figures (all of which were obtained from DOE), and medical costs of $3000 per year for beryllium sensitivity, $4000 per year for mild chronic beryllium disease, and $9000 per year for more severe chronic beryllium disease. Benefit estimates for silicosis are based upon figures obtained from DOE concerning the number of exposed employees and the expected incidence of silicosis, and medical costs of $4000 per year. Benefit estimates for the claims based upon receipt of an award by uranium employees pursuant to § 5 of the Radiation Exposure Compensation Act are based on figures for the number of claims provided by DOJ, and $4000 per year in medical costs.

Because the statute provides benefits for covered workers and their survivors who were exposed to radiation, beryllium and silica during a period of almost 60 years, an assumption was made that DOL would receive thousands of claims in the initial few years after the effective date of the statute, and that the number of claims would decrease substantially after the first few years. Administrative cost estimates were developed based upon DOL's experience in administering other workers' compensation programs, using calculations of the number of incoming claims and forecasting the necessary full-time equivalents and other resources necessary to efficiently administer the program.

No more extensive economic impact analysis is necessary because the regulatory action only addresses the transfer of funds from the federal government to individuals who qualify under the EEOICPA and to providers of medical services in that program. This regulatory action has no affect on the functioning of the economy and private markets, on the health and safety of the general population, or on the natural environment. In addition, because this regulation implements a statutory mandate, there are no feasible alternatives to this regulatory action. Finally, to the extent that policy choices have been made in interpreting the statutory terms, those choices have no significant impact on the cost of this regulatory action. Such policy choices may affect who is entitled to receive benefits (as in the case of potential survivors), but will not have a significant impact on the number of eligible recipients or the level of benefits to which they are entitled.

OMB has reviewed the rule for consistency with the President's priorities and the principles set forth in E.O. 12866.

VII. Small Business Regulatory Enforcement Fairness Act

As required by Congress under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), the Department will report to Congress promulgation of this rule prior to its effective date. The report will state that the Department has concluded that this rule is a ''major rule'' because it will likely result in an annual effect on the economy of $100 million or more.

VIII. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531 *et seq.*) directs agencies to assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector, ''other than to the extent that such regulations incorporate requirements specifically set forth in law.'' For purposes of the Unfunded Mandates Reform Act, this rule does not include any Federal mandate that may result in increased annual expenditures in excess of $100 million by State, local or tribal governments in the aggregate, or by the private sector.

IX. Regulatory Flexibility Act

The Department believes that this interim final rule will have ''no significant economic impact upon a substantial number of small entities'' within the meaning of the RFA. The provisions of this rule applying cost control measures to payments for medical expenses are the only ones that may have a monetary effect on small businesses. That effect will not be significant for a substantial number of those businesses, however, for no single business will bill a significant amount to OWCP for EEOICPA-related services, and the effect on those bills which are submitted, while a worthwhile savings for the Government in the aggregate, will be not be significant for individual businesses affected.

The cost containment provisions are: (1) a set schedule of maximum allowable fees for professional medical services; (2) a set schedule for payment of pharmacy bills; and (3) a prospective payment system for hospital inpatient services. The methodologies used for the first two of these provisions are explained in the text of the preamble to this interim final rule, which essentially adopts payment systems that are commonplace in the industry. Their adoption by OWCP for use in connection with its administration of the EEOICPA program will therefore result in efficiencies for the Government and providers. The Government will benefit because OWCP did not develop new cost containment measures, but rather adopted existing and well-recognized measures that were already in place. The providers benefit because submitting a bill and receiving a payment will be almost the same as submitting it to Medicare, a program with which they are already familiar and have existing systems in place for billing—they will not have to incur unnecessary administrative costs to learn a new process because the EEOICPA bill process will not be readily distinguishable from the Medicare process. Similarly, pharmacies are used to billing through clearing houses and having their charges subject to limits by

private insurers. By adopting the uniform billing statement and a familiar cost control methodology, OWCP has kept close to the billing environment with which pharmacies are already familiar. The methods chosen, therefore, represent systems familiar to the providers. The third of these three provisions will not have an effect on a substantial number of ''small entities'' under SBA standards, since most hospitals providing services for EEOICPA-covered conditions will have annual receipts that exceed the set maximum.

The implementation of these cost containment methods will have no significant effect on any single medical professional or pharmacy since they are already used by Medicare, CHAMPUS, and the Departments of Labor and Veterans Affairs, among Government entities, and by private insurance carriers. In actual terms, the amount by which these provider bills might be reduced will not have a significant impact on any one small entity since these charges are currently being processed by other payers applying similar cost containment provisions. The costs to providers whose charges may be reduced also will be relatively small because EEOICPA bills simply will not represent a large share of any single provider's total business. Since the small universe of potential claimants is spread across the United States and this bill processing system will cover only those employees who have sustained a covered illness and require medical treatment on or after July 31, 2001 (out of the projected total of 23,201 claims the Department estimates it will accept over the next five years, only about 14,000 of these will involve payment for medical treatment), the number of bills submitted by any one small entity which may be subject to these provisions is likely to be very small. Therefore, the ''cost'' of this rule to any one pharmacy or medical professional will be negligible. On the other hand, OWCP will see substantial aggregate cost savings that will benefit both OWCP (by strengthening the integrity of the program) and the taxpayers to whom the ultimate costs of the program are eventually charged through appropriations.

The Assistant Secretary for Employment Standards has certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant impact on a substantial number of small entities. The factual basis for this certification has been provided above. Accordingly, no regulatory impact analysis is required.

X. Executive Order 12988 (Civil Justice)

This regulation has been drafted and reviewed in accordance with Executive Order 12988, Civil Justice Reform and will not unduly burden the Federal court system. While the EEOICPA does not provide any specific procedures claimants must follow in order to seek review of decisions on their claims, substantial numbers of claimants will likely seek review of adverse decisions in the United States district courts pursuant to the Administrative Procedure Act. This regulation should minimize the burden placed upon the courts by litigation seeking to challenge decisions under EEOICPA by providing claimants an opportunity to seek administrative review of adverse decisions and by providing a clear legal standard for affected conduct. It has been reviewed carefully to eliminate drafting errors and ambiguities.

XI. Executive Order 13132 (Federalism)

The Department has reviewed this rule in accordance with Executive Order 13132 regarding federalism, and has determined that it does not have ''federalism implications.'' The rule does not ''have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

XII. Executive Order 13045 (Protection of Children From Environmental, Health Risks and Safety Risks)

In accordance with Executive Order 13045, OWCP has evaluated the environmental health and safety effects of this rule on children. The agency has determined that the final rule will have no effect on children.

XIII. Submission to Congress and the General Accounting Office

In accordance with the Small Business Regulatory Enforcement Fairness Act, the Department will submit to each House of the Congress and to the Comptroller General a report regarding the issuance of this final rule prior to the effective date set forth at the outset of this notice. The report will note that this rule constitutes a ''major rule'' as defined by 5 U.S.C. 804(2).

XIV. Catalog of Federal Domestic Assistance Number

This program is not listed in the Catalog of Federal Domestic Assistance.

List of Subjects

20 CFR Part 1

Administrative practice and procedure, Claims, Government Employees, Labor, Workers' Compensation.

20 CFR Part 30

Administrative practice and procedure, Cancer, Claims, Kidney Diseases, Leukemia, Lung Diseases, Miners, Radioactive Materials, Tort claims, Underground mining, Uranium, Workers' Compensation.

Text of the Rule

For the reasons set forth in the preamble, 20 CFR Chapter 1 is amended as follows:

Subchapter A—Organization and Procedures

1. Part 1 is revised to read as follows:

PART 1—PERFORMANCE OF FUNCTIONS UNDER THIS CHAPTER

Sec.

Authority: 5 U.S.C. 301, 8145, 8149 (Reorganization Plan No. 6 of 1950, 15 FR 3174, 64 Stat. 1263); Executive Order 13179, 65 FR 77487, 3 CFR, 2000 Comp., p. 321; Secretary of Labor's Order No. 13–71, 36 FR 8155; Employment Standards Order No. 2–74, 39 FR 34722.

§ 1.1 Under what authority was the Office of Workers' Compensation Programs established?

The Assistant Secretary of Labor for Employment Standards, by authority vested in him by the Secretary of Labor in Secretary's Order No. 13–71, 36 FR 8755, established in the Employment Standards Administration an Office of Workers' Compensation Programs (OWCP) by Employment Standards Order No. 2–74, 39 FR 34722. The Assistant Secretary subsequently designated as the head thereof a Deputy Assistant Secretary for Workers' Compensation Programs who, under the general supervision of the Assistant Secretary, administers the programs assigned to that Office by the Assistant Secretary.

§ 1.2 What functions are assigned to OWCP?

The Assistant Secretary has delegated authority and assigned responsibility to the Deputy Assistant Secretary for Workers' Compensation Programs for the Department of Labor's programs under the following statutes:

(a) The Federal Employees' Compensation Act, as amended and extended (5 U.S.C. 8101 *et seq.*), except 5 U.S.C. 8149 as it pertains to the Employees' Compensation Appeals Board.

(b) The War Hazards Compensation Act (42 U.S.C. 1701 *et seq.*).

(c) The War Claims Act (50 U.S.C. App. 2003).

(d) The Energy Employees Occupational Illness Compensation Program Act, Title XXXVI of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, Pub. L. 106–398 (114 Stat. 1654, 1654A–1231), except activities, pursuant to Executive Order 13179 (''Providing Compensation to America's Nuclear Weapons Workers'') of December 7, 2000, assigned to the Secretary of Health and Human Services, the Secretary of Energy and the Attorney General.

(e) The Longshore and Harbor Workers' Compensation Act, as amended and extended (33 U.S.C. 901 *et seq.*), except: 33 U.S.C. 919(d) with respect to administrative law judges in the Office of Administrative Law Judges; 33 U.S.C. 921(b) as it pertains to the Benefits Review Board; and activities, pursuant to 33 U.S.C. 941, assigned to the Assistant Secretary for Occupational Safety and Health.

(f) The Black Lung Benefits Act, as amended (30 U.S.C. 901 *et seq.*).

§ 1.3 What rules are contained in this chapter?

The rules in this chapter are those governing the OWCP functions under the Federal Employees' Compensation Act, the War Hazards Compensation Act, the War Claims Act and the Energy Employees Occupational Illness Compensation Program Act.

§ 1.4 Where are other rules concerning OWCP functions found?

(a) The rules of the OWCP governing its functions under the Longshore and Harbor Workers' Compensation Act and its extensions are set forth in subchapter A of chapter VI of this title.

(b) The rules of the OWCP governing its functions under the Black Lung Benefits Act program are set forth in subchapter B of chapter VI of this title.

(c) The rules and regulations of the Employees' Compensation Appeals Board are set forth in chapter IV of this title.

(d) The rules and regulations of the Benefits Review Board are set forth in Chapter VII of this title.

§ 1.5 When was the former Bureau of Employees' Compensation abolished?

By Secretary of Labor's Order issued September 23, 1974, 39 FR 34723, issued concurrently with Employment Standards Order 2–74, 39 FR 34722, the Secretary revoked the prior Secretary's Order No. 18–67, 32 FR 12979, which had delegated authority and assigned responsibility for the various workers' compensation programs enumerated in § 1.2, except the Black Lung Benefits program and the Energy Employees Occupational Illness Compensation program not then in existence, to the Director of the former Bureau of Employees' Compensation.

§ 1.6 How were many of OWCP's current functions administered in the past?

(a) Administration of the Federal Employees' Compensation Act and the Longshore and Harbor Workers' Compensation Act was initially vested in an independent establishment known as the U.S. Employees' Compensation Commission. By Reorganization Plan No. 2 of 1946 (3 CFR 1943–1949 Comp., p. 1064; 60 Stat. 1095, effective July 16, 1946), the Commission was abolished and its functions were transferred to the Federal Security Agency to be performed by a newly created Bureau of Employees' Compensation within such Agency. By Reorganization Plan No. 19 of 1950 (15 FR 3178, 64 Stat. 1263) said Bureau was transferred to the Department of Labor (DOL), and the authority formerly vested in the Administrator, Federal Security Agency, was vested in the Secretary of Labor. By Reorganization Plan No. 6 of 1950 (15 FR 3174, 64 Stat. 1263), the Secretary of Labor was authorized to make from time to time such provisions as he shall deem appropriate, authorizing the performance of any of his functions by any other officer, agency, or employee of the DOL.

(b) In 1972, two separate organizational units were established within the Bureau: an Office of Workmen's Compensation Programs (37 FR 20533) and an Office of Federal Employees' Compensation (37 FR 22979). In 1974, these two units were abolished and one organizational unit, the Office of Workers' Compensation Programs (OWCP), was established in lieu of the Bureau of Employees' Compensation (39 FR 34722).

2. Subchapter C consisting of Part 30 is added to read as follows:

Subchapter C—Energy Employees Occupational Illness Compensation Program Act

PART 30—CLAIMS FOR COMPENSATION UNDER THE ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM ACT

Subpart A—General Provisions

Introduction

Definitions

Information in Program Records

Rights and Penalties

Subpart B—Filing Claims; Evidence and Burden of Proof; Special Procedures for Certain Cancer Claims

Claims for Occupational Illness—Employee or Survivor's Actions

Claims for Occupational Illness—Actions of DOE

Evidence and Burden of Proof

Authority: 5 U.S.C. 301; Executive Order 13179, 65 FR 77487, 3 CFR, 2000 Comp., p. 321.

Subpart A—General Provisions

Introduction

§ 30.0 What are the provisions of the EEOICPA, in general?

The Energy Employees Occupational Illness Compensation Program Act (EEOICPA), Pub. L. 106–398 (114 Stat. 1654, 1654A–1231), provides for the payment of compensation benefits to covered employees and, where applicable, survivors of such employees, of the United States Department of Energy, its predecessor agencies and certain of its contractors and subcontractors. It also provides for the payment of compensation to certain persons already found eligible for benefits under section 5 of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) and, where applicable, survivors of such employees. The regulations in this part describe the rules for filing, processing, and paying claims for benefits under the EEOICPA.

(a) The EEOICPA provides for the payment of either monetary compensation for the disability of a covered employee due to an occupational illness or for monitoring for beryllium sensitivity, as well as for medical and related benefits for such illness.

(b) All types of benefits and conditions of eligibility listed in this section are subject to the provisions of the EEOICPA and of this part.

§ 30.1 What rules govern the administration of the EEOICPA and this chapter?

In accordance with the EEOICPA and E.O. 13179, the Secretary of Labor has delegated the primary responsibility for administering the EEOICPA, except for those activities assigned to the Secretary of Health and Human Services, the Secretary of Energy and the Attorney General, to the Assistant Secretary for Employment Standards. The Assistant Secretary, in turn, has delegated the responsibility for administering the EEOICPA to the Deputy Assistant Secretary for Workers' Compensation Programs. Except as otherwise provided by law, the Deputy Assistant Secretary for Workers' Compensation Programs and his or her designees have the exclusive authority to administer, interpret and enforce the provisions of the EEOICPA.

§ 30.2 In general, how have the tasks associated with the administration of the EEOICPA claims process been assigned?

(a) In E.O. 13179, the President assigned various tasks associated with the administration of the EEOICPA claims process among the Secretaries of Labor, Health and Human Services and Energy, and the Attorney General. In light of the fact that the Secretary of Labor has been assigned primary responsibility for administering the EEOICPA, almost the entire claims process is within the exclusive control of OWCP. This means that claimants file their claims with OWCP, and OWCP is responsible for granting or denying compensation under the Act (see §§ 30.100, 30.101, and 30.505 through 30.513). OWCP also provides an administrative review process for claimants who disagree with its recommended and final adverse decisions (see §§ 30.300 through 30.320).

(b) However, HHS has exclusive control of a portion of the claims process involving certain cancer claims, and is therefore responsible for providing reconstructed doses for these claims (see § 30.115). HHS is also responsible for promulgating regulations establishing the guidelines that will be used by OWCP to assess the likelihood that an individual with cancer sustained the cancer in the performance of duty (see § 30.210). DOE and DOJ are responsible for, among other tasks, notifying potential claimants and submitting evidence that OWCP deems necessary for its adjudication of claims under the EEOICPA (see §§ 30.105, 30.106, and 30.111).

§ 30.3 What do these regulations contain?

This part 30 sets forth the regulations governing administration of all claims filed under the EEOICPA, except to the extent specified in certain provisions. Its provisions are intended to assist persons seeking benefits under the EEOICPA, as well as personnel in the various federal agencies and the DOL who process claims filed under the EEOICPA or who perform administrative functions with respect to the EEOICPA. The various subparts of this part contain the following:

(a) Subpart A: the general statutory and administrative framework for processing claims under the EEOICPA. It contains a statement of purpose and scope, together with definitions of terms, information regarding the disclosure of OWCP records, and a description of rights and penalties

under the EEOICPA, including convictions for fraud.

(b) Subpart B: the rules for filing claims for benefits under the EEOICPA. It also addresses general standards regarding necessary evidence and the burden of proof, descriptions of basic forms and special procedures for certain cancer claims.

(c) Subpart C: the eligibility criteria for conditions covered by the EEOICPA.

(d) Subpart D: the rules governing the adjudication process leading from recommended to final decisions made on claims filed under the EEOICPA. It also describes the OWCP hearing and modification processes.

(e) Subpart E: the rules governing medical care, second opinion and referee medical examinations directed by OWCP, and medical reports and records in general. It also addresses the kinds of treatment that may be authorized and how medical bills are paid.

(f) Subpart F: the rules relating to the payment of monetary compensation. It includes the provisions for identifying and processing overpayments of compensation.

(g) Subpart G: the rules concerning legal representation, subrogation of the United States, and the election of remedies against beryllium vendors and atomic weapons employers.

(h) Subpart H: information for medical providers. It includes rules for medical reports, medical bills, and the OWCP medical fee schedule, as well as the provisions for exclusion of medical providers.

Definitions

§ 30.5 What are the definitions used in this part?

(a) *Act or EEOICPA* means the Energy Employees Occupational Illness Compensation Program Act of 2000, Public Law 106–398.

(b) *Atomic weapon* means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separable and divisible part of the device), the principle purpose of which is for use as, or for development of, a weapon, a weapon prototype, or a weapon test device.

(c) *Atomic weapons employee* means an individual employed by an atomic weapons employer during a period when the employer was processing or producing, for the use by the United States, material that emitted radiation and was used in the production of an atomic weapon, excluding uranium mining and milling.

(d) *Atomic weapons employer* means any entity, other than the United States, that:

(1) Processed or produced, for use by the United States, material that emitted radiation and was used in the production of an atomic weapon, excluding uranium mining and milling; and

(2) Is designated by the Secretary of Energy as an atomic weapons employer for purposes of the compensation program.

(e) *Atomic weapons employer facility* means a facility, owned by an atomic weapons employer, that is or was used to process or produce, for use by the United States, material that emitted radiation and was used in the production of an atomic weapon, excluding uranium mining or milling.

(f) *Attorney General* means the Attorney General of the United States or the United States Department of Justice (DOJ).

(g) *Benefit or Compensation* means the money the Department pays to or on behalf of a covered employee from the Energy Employees Occupational Illness Compensation Fund. However, the term ''compensation'' used in section 3647(b) of the EEOICPA (with respect to entitlement to only one payment of compensation) means only the payments specified in section 3628(a)(1) ($150,000 lump sum payment), and in section 3630(a) ($50,000 payment to beneficiaries under section 5 of the RECA). Except as used in section 3647(b), these two terms also include any other amounts paid out of the Fund for such things as medical treatment, monitoring, examinations, services, appliances and supplies as well as for transportation and expenses incident to the securing of such medical treatment, monitoring, examinations, services, appliances, and supplies.

(h) *Beryllium sensitization or sensitivity* means that the individual has an abnormal beryllium lymphocyte proliferation test (LPT) on either blood or lung lavage cells.

(i) *Beryllium vendor* includes any of the facilities designated as such in the list periodically published in the **Federal Register** by the DOE.

(j) *Chronic silicosis* means a non-malignant lung disease if :

(1) The initial occupational exposure to silica dust preceded the onset of silicosis by at least 10 years; and

(2) A written diagnosis of silicosis is made by a medical doctor and is accompanied by:

(i) A chest radiograph, interpreted by an individual certified by the National Institute for Occupational Safety and Health as a B reader, classifying the existence of pneumoconioses of category 1/1 or higher;

(ii) Results from a computer assisted tomograph or other imaging technique that are consistent with silicosis; or

(iii) Lung biopsy findings consistent with silicosis.

(k) *Claim* means a written assertion of an individual's entitlement to benefits under the EEOICPA, submitted in a manner authorized by this part.

(l) *Claimant* means the individual who is alleged to satisfy the criteria for compensation under the Act.

(m) *Compensation fund or fund* means the fund established on the books of the Treasury for payment of benefits and compensation under the Energy Employees Occupational Illness Compensation Program Act.

(n) *Contemporaneous record* means any document created at or around the time of the event that is recorded in the document.

(o) *Covered beryllium illness* means any of the following:

(1) Beryllium sensitivity as established by an abnormal LPT performed on either blood or lung lavage cells.

(2) Established chronic beryllium disease (see § 30.207(c)).

(3) Any injury, illness, impairment, or disability sustained as a consequence of a covered beryllium illness referred to in paragraph (o)(1) or (2) of this section.

(p) *Covered employee* means a covered beryllium employee (see § 30.205), a covered employee with cancer (see § 30.210), a covered employee with chronic silicosis (see § 30.215), or a covered uranium employee (see paragraph (q) of this section).

(q) *Covered uranium employee* means an employee who has been informed by the Department of Justice that he or she has been determined to be entitled to compensation under section 5 of the Radiation Exposure Compensation Act, as amended, (42 U.S.C. 2210 note) for a claim made under that Act.

(r) *Current or former employee as defined in* 5 U.S.C. 8101(1) as used in § 30.205 means an individual who fits within one of the following listed groups:

(1) A civil officer or employee in any branch of the Government of the United States, including an officer or employee of an instrumentality wholly owned by the United States;

(2) An individual rendering personal service to the United States similar to the service of a civil officer or employee of the United States, without pay or for nominal pay, when a statute authorizes the acceptance or use of the service, or

authorizes payment of travel or other expenses of the individual;

(3) An individual, other than an independent contractor or individual employed by an independent contractor, employed on the Menominee Indian Reservation in Wisconsin in operations conducted under a statute relating to tribal timber and logging operations on that reservation;

(4) An individual appointed to a position on the office staff of a former President; or

(5) An individual selected and serving as a Federal petit or grand juror.

(s) *Department (DOL)* means the United States Department of Labor.

(t) *Department of Energy (DOE)* includes the predecessor agencies of the DOE, including the Manhattan Engineering District.

(u) *Department of Energy contractor employee* means any of the following:

(1) An individual who is or was in residence at a DOE facility as a researcher for one or more periods aggregating at least 24 months.

(2) An individual who is or was employed at a DOE facility by:

(i) An entity that contracted with the DOE to provide management and operating, management and integration, or environmental remediation at the facility; or

(ii) A contractor or subcontractor that provided services, including construction and maintenance, at the facility.

(v) *Department of Energy facility* means any building, structure, or premise, including the grounds upon which such building, structure, or premise is located:

(1) In which operations are, or have been, conducted by, or on behalf of, the DOE (except for buildings, structures, premises, grounds, or operations covered by Executive Order 12344, dated February 1, 1982, pertaining to the Naval Nuclear Propulsion Program); and

(2) With regard to which the DOE has or had:

(i) A proprietary interest; or

(ii) Entered into a contract with an entity to provide management and operation, management and integration, environmental remediation services, construction, or maintenance services; and

(3) Is designated by the Secretary of Energy as an atomic weapons employer for purposes of this program.

(w) *Disability* means, for purposes of determining entitlement to payment under EEOICPA sections 3628(a)(1), having been determined by OWCP to have or have had established chronic beryllium disease, cancer, or chronic silicosis.

(x) *Eligible surviving beneficiary* means any individual who is entitled under section 3628(e) of the Act to receive a payment on behalf of a deceased covered employee.

(y) *Employee* means either a current or former employee.

(z) *Occupational illness* means a covered beryllium illness, cancer sustained in the performance of duty as defined in § 30.210(b), specified cancer, or chronic silicosis.

(aa) *OWCP* means the Office of Workers' Compensation Programs, United States Department of Labor.

(bb) *Physician* includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. The term ''physician'' includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist.

(cc) *Qualified physician* means any physician who has not been excluded under the provisions of subpart H of this part. Except as otherwise provided by regulation, a qualified physician shall be deemed to be designated or approved by OWCP.

(dd) *Specified cancer* (as defined in section 4(b) of the Radiation Exposure Compensation Act Amendments of 2000 (42 U.S.C. 2210 note) and the Act) means:

(1) Leukemia (other than chronic lymphocytic leukemia) provided that initial exposure occurred after the age of 20 and the onset of the disease was at least 2 years after first exposure;

(2) Lung cancer (other than in situ lung cancer that is discovered during or after a post-mortem exam);

(3) The following diseases, provided onset was at least 5 years after first exposure:

(i) Multiple myeloma;

(ii) Lymphomas (other than Hodgkin's disease);

(4) Primary cancer of the:

(i) Thyroid;

(ii) Male or female breast;

(iii) Esophagus;

(iv) Stomach;

(v) Pharynx;

(vi) Small intestine;

(vii) Pancreas;

(viii) Bile ducts;

(ix) Gall bladder;

(x) Salivary gland;

(xi) Urinary bladder;

(xii) Brain;

(xiii) Colon;

(xiv) Ovary; or

(xv) Liver (except if cirrhosis or hepatitis B is indicated); and

(5) Bone cancer.

(6) The specified diseases designated in paragraphs (dd) (2), (3), and (4) of this section mean the physiological condition or conditions that are recognized by the National Cancer Institute under those names or nomenclature, or under any previously accepted or commonly used names or nomenclature.

(ee) *Survivor* means:

(1) Subject to paragraph (ee)(2) of this section, a widow or widower, child, parent, brother, sister, grandparent and grandchild of a deceased covered employee.

(2) Those individuals listed in paragraph (ee)(1) of this section do not include:

(i) A child, a brother, a sister, or a grandchild who, at the time of the death, was married, or was 18 years of age or older, unless incapable of self-support; or

(ii) A parent or grandparent who, at the time of the death, was not dependent on the deceased covered employee.

(3) Notwithstanding paragraph (ee)(2)(i) of this section, an unmarried child, brother, sister, or grandchild is a survivor if he/she was, at the time of the death, a student as defined by section 8101 of Title 5, United States Code.

(ff) *Time of injury* means:

(1) In regard to a claim arising out of exposure to beryllium or silica, the last date on which a covered employee was exposed to such substance in the performance of duty in accordance with sections 3623(a) or 3627(c) of the EEOICPA; or

(2) In regard to a claim arising out of exposure to radiation, the last date on which a covered employee was exposed to radiation in the performance of duty in accordance with section 3623(b) of the EEOICPA or, in the case of a member of the Special Exposure Cohort, the last date on which the member of the Special Exposure Cohort was employed at the Department of Energy facility at which the member was exposed to radiation.

(gg) *Widow or widower* means the wife or husband living with or dependent for support on the decedent at the time of his or her death, or living apart for reasonable cause or because of his or her desertion.

(hh) *Workday* means a single workshift whether or not it occurred on more than one calendar day.

Information in Program Records

§ 30.10 Are all OWCP records relating to claims filed under the EEOICPA considered confidential?

All OWCP records relating to claims for benefits under the EEOICPA are considered confidential and may not be released, inspected, copied or otherwise disclosed except as provided in the Freedom of Information Act and the Privacy Act of 1974.

§ 30.11 Who maintains custody and control of claim records?

All OWCP records relating to claims for benefits filed under the EEOICPA are covered by the Privacy Act system of records entitled DOL/ESA–49 (Office of Workers' Compensation Programs, Energy Employees Occupational Illness Compensation Program Act File). This system of records is maintained by and under the control of OWCP, and, as such, all records covered by DOL/ESA–49 are official records of OWCP. The protection, release, inspection and copying of records covered by DOL/ESA–49 shall be accomplished in accordance with the rules, guidelines and provisions of this part, as well as those contained in 29 CFR parts 70 and 71, and with the notice of the system of records and routine uses to be published in the **Federal Register**. All questions relating to access, disclosure, and/or amendment of EEOICPA records maintained by OWCP are to be resolved in accordance with this section.

§ 30.12 What process is used by a person who wants to obtain copies of or amend EEOICPA claim records?

(a) A claimant seeking copies of his or her official EEOICPA file should address a request to the District Director of the OWCP office having custody of the file.

(b) Any request to amend a record covered by DOL/ESA–49 should be directed to the district office having custody of the official file.

(c) Any administrative appeal taken from a denial issued by OWCP under this section shall be filed with the Solicitor of Labor in accordance with 29 CFR 71.7 and 71.9.

Rights and Penalties

§ 30.15 May EEOICPA benefits be assigned or transferred?

No claim for EEOICPA benefits may be assigned or transferred.

§ 30.16 What penalties may be imposed in connection with a claim under the EEOICPA?

(a) Other statutory provisions make it a crime to file a false or fraudulent claim or statement with the federal government in connection with a claim under the EEOICPA. Included among these provisions is section 1001 of title 18, United States Code. Enforcement of criminal provisions that may apply to claims under the EEOICPA are within the jurisdiction of the Department of Justice.

(b) In addition, administrative proceedings may be initiated under the Program Fraud Civil Remedies Act of 1986 (PFCRA), 31 U.S.C. 3801–12, to impose civil penalties and assessments against persons or entities who make, submit, or present, or cause to be made, submitted or presented, false, fictitious or fraudulent claims or written statements to OWCP in connection with a claim under the EEOICPA. The Department of Labor's regulations implementing the PFRCA are found at 29 CFR part 22.

§ 30.17 Is a beneficiary who defrauds the government in connection with a claim for benefits still entitled to those benefits?

When a beneficiary either pleads guilty to or is found guilty on either federal or state criminal charges of defrauding the federal government in connection with a claim for benefits under the EEOICPA or any other federal or state workers' compensation law, the beneficiary's entitlement to any further benefits will terminate effective the date either the guilty plea is accepted or a verdict of guilty is returned after trial, for any occupational disease for which the time of injury was on or before the date of such guilty plea or verdict. Any subsequent change in or recurrence of the beneficiary's medical condition does not affect termination of entitlement under this section.

Subpart B—Filing Claims; Evidence and Burden of Proof; Special Procedures for Certain Cancer Claims

Claims for Occupational Illness—Employee or Survivor's Actions

§ 30.100 In general, how does an employee file for benefits?

(a) To claim benefits under the EEOICPA, an employee must file a claim in writing on or after July 31, 2001. Form EE–1 should be used for this purpose, but any written communication that requests benefits under the EEOICPA will be considered a claim. It will, however, be necessary for a claimant to submit a Form EE–1 for OWCP to adjudicate the claim. Copies of Form EE–1 may be obtained from OWCP, from DOE, or from OWCP's home page on the Internet at www.dol.gov/dol/esa/public/owcp_org.htm. The employee must file his or her claim with OWCP, or another person may do so on the employee's behalf.

(b) The employee may withdraw his or her claim by so requesting in writing to OWCP at any time before OWCP determines eligibility for benefits.

(c) A claim is considered to be ''filed'' on the date that the employee mails his or her claim to OWCP, as determined by postmark, or on the date that the claim is received by OWCP or DOE, whichever is the earliest determinable date, but in no event earlier than July 31, 2001.

(1) Form EE–1 shall be sworn to by the employee, or by the person filing the claim on behalf of the employee.

(2) Except for a covered uranium employee, the employee is responsible for submitting, or arranging for the submission of, medical evidence to OWCP that establishes that he or she sustained an occupational illness.

§ 30.101 In general, how is a survivor's claim filed?

(a) Any survivor of an employee who sustained an occupational illness may file a claim for compensation in writing on or after July 31, 2001. Form EE–2 should be used for this purpose, but any written communication that requests benefits under the EEOICPA will be considered a claim. It will, however, be necessary for a claimant to submit a Form EE–2 for OWCP to adjudicate the claim. Copies of Form EE–2 may be obtained from OWCP, from DOE, or from OWCP's home page on the Internet at www.dol.gov/dol/esa/public/owcp_org.htm. The claiming survivor must file his or her claim with OWCP, or another person may do so on the survivor's behalf. Although only one survivor need file a claim under this section to initiate the adjudication process, OWCP will distribute any monetary benefits paid among all eligible surviving beneficiaries pursuant to the terms of § 30.501.

(b) A survivor may withdraw his or her claim by so requesting in writing to OWCP at any time before OWCP determines eligibility for benefits.

(c) A survivor must be alive to receive any payment; there is no vested right to such payment.

(d) A survivor's claim is considered to be ''filed'' on the date that the survivor mails his or her claim to OWCP, as determined by postmark, or the date that the claim is received by OWCP or DOE, whichever is the earliest determinable date, but in no event earlier than July 31, 2001.

(1) Form EE–2 shall be sworn to by the survivor, or by the person filing the claim on behalf of the survivor.

(2) Except for the survivor of a covered uranium employee, the survivor

is responsible for submitting, or arranging for the submission of, evidence to OWCP that establishes that the employee upon whom the survivor's claim is based was eligible for such benefits, including medical evidence that establishes that the employee sustained an occupational illness.

§ 30.102 How does a claimant make sure that OWCP has the evidence necessary to process the claim?

(a) Claim forms and certain required submissions should be made on forms prescribed by OWCP. Persons submitting forms shall not modify these forms or use substitute forms. DOE is expected to maintain an adequate supply of the basic forms needed for filing claims under the EEOICPA.

Form No.	Title
(1) EE–1	Claim for Benefits Under Energy Employees Occupational Illness Compensation Program Act.
(2) EE–2	Claim for Survivor Benefits Under Energy Employees Occupational Illness Compensation Program Act.
(3) EE–3	Employment History for Claim Under Energy Employees Occupational Illness Compensation Program Act.
(4) EE–4	Employment History Affidavit for Claim Under the Energy Employees Occupational Illness Compensation Program Act.
(5) EE–5	Department of Energy's Response to Employment History for Claim Under the Energy Employees Occupational Illness Compensation Program Act.
(6) EE–7	Medical Requirements Under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA).

(b) Copies of the forms listed in this section are available for public inspection at the Office of Workers' Compensation Programs, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. They may also be obtained from OWCP district offices, from DOE, and from OWCP's home page on the Internet at www.dol.gov/dol/esa/public/owcp_org.htm.

Claims for Occupational Illness—Actions of DOE

§ 30.105 What must DOE do after an employee files a claim for an occupational illness?

(a) DOE shall complete Form EE–5 as soon as possible and transmit the completed form to OWCP. On this form, DOE shall certify that it concurs with the employment information provided by the employee, or that it disagrees with such information, or that it can neither concur nor disagree after making a reasonable search of its records and also making a reasonable effort to locate pertinent records not already in its possession.

(b) Upon request of a claimant, DOE shall also assist such claimant in completing Form EE–4 and transmit the completed form to OWCP.

(c) DOE should not wait for the employee to submit the necessary supporting medical evidence before it forwards any Form EE–1 (or other document containing an employee's claim) it has received to OWCP.

§ 30.106 What should DOE do when an employee with a claim for an occupational illness dies?

(a) When possible, DOE shall furnish a Form EE–2 to all survivors likely to be entitled to compensation after the death of an employee. DOE should also supply information about completing and filing the form.

(b) DOE shall complete Form EE–5 as soon as possible and transmit the completed form to OWCP. On this form, DOE shall certify that it concurs with the employment information provided by the survivor, or that it disagrees with such information, or that it can neither concur nor disagree after making a reasonable search of its records and also making a reasonable effort to locate pertinent records not already in its possession.

(c) Upon request of a survivor, DOE shall also assist such survivor in completing Form EE–4 and transmit the completed form to OWCP.

(d) DOE should not wait for the claiming survivor to submit the necessary supporting medical evidence before it forwards any Form EE–2 (or other document containing a survivor's claim) it has received to OWCP.

Evidence and Burden of Proof

§ 30.110 Who is entitled to compensation under the Act?

(a) Compensation is payable to the following covered employees, or their survivors:

(1) A ''covered beryllium employee'' (as described § 30.205(a) who has been diagnosed with a covered beryllium illness (as defined in § 30.5(o)) and was exposed to beryllium in the performance of duty (in accordance with § 30.206).

(2) A ''covered employee with cancer'' (as described in § 30.210).

(3) A ''covered employee with chronic silicosis'' (as described in § 30.215).

(4) A ''covered uranium employee'' (as defined in § 30.5(q)).

(b) Any claim that does not meet all of the criteria for at least one of these categories, as set forth in these regulations, must be denied.

(c) All claims for benefits under the Act must comply with the claims procedures and requirements set forth in subpart B of this part before any payment can be made from the Fund.

§ 30.111 What is the claimant's responsibility with respect to burden of proof, production of documents, presumptions, and affidavits?

(a) Except where otherwise provided in the Act and these regulations, the claimant bears the burden of proving by a preponderance of the evidence the existence of each and every criterion necessary to establish eligibility under any compensable claim category set forth in § 30.110. Proof by a preponderance of the evidence means that it is more likely than not that the proposition to be proved is true. Subject to the exceptions expressly provided in the Act and regulations, the claimant also bears the burden of providing to the OWCP all written medical documentation, contemporaneous records, or other records and documents necessary to establish any and all criteria for benefits set forth in these regulations.

(b) In the event that the claim lacks required information or supporting documentation, DOL will notify the employee, survivor, and/or DOE of the deficiencies and provide an opportunity for correction of the deficiencies.

(c) Written affidavits or declarations, subject to penalty for perjury, by the employee, survivor, or any other person, will be accepted as evidence of employment history and survivor relationship for purposes of establishing eligibility and may be relied on in determining whether a claim meets the requirements of the Act for benefits if, and only if, such person attests that due diligence was used to obtain records in support of the claim, but that no records exist.

(d) A claimant will not be entitled to any presumption otherwise provided for in these regulations if substantial evidence exists that rebuts the existence of the fact that is the subject of the presumption. Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. When such evidence exists, the covered employee or his or her survivor shall be notified and afforded the opportunity to submit additional written medical documentation or records.

§ 30.112 What are the requirements for written medical documentation, contemporaneous records, and other records or documents?

(a) All written medical documentation, contemporaneous records, and other records or documents submitted by an employee or his or her survivor to prove any criteria provided for in these regulations must be originals, a certified copy or a clear readable copy of the document or record.

(b) To establish eligibility, the employee or his or her survivor may be required to provide, where appropriate, additional contemporaneous records to the extent they exist or an authorization to release additional contemporaneous records or a statement by the custodian(s) of the record(s) certifying that the requested record(s) no longer exist. Nothing in the regulation in this section shall be construed to limit OWCP's ability to require additional documentation.

Special Procedures for Certain Cancer Claims

§ 30.115 What does OWCP do once it determines that a covered employee who is not a member of the Special Exposure Cohort (or a survivor of such an employee) has established that he or she contracted cancer under § 30.211(b)?

(a) OWCP will forward any such claimant's application package (including, but not limited to, Forms EE–1, EE–2, EE–3, EE–4 and EE–5, as appropriate) to HHS for dose reconstruction. At that point in time, adjudication of the claim by OWCP is suspended.

(1) This package will include OWCP's initial findings in regard to the covered employee's diagnosis and date of diagnosis, as well as any employment history compiled by OWCP (including information such as dates and locations worked, and job titles). The package, however, does not constitute a recommended or final decision by OWCP on the claim.

(2) HHS will then reconstruct the covered employee's radiation dose, following such further development of the employment history as it may deem necessary, and notify the claimant of its findings. At that same time, HHS will also inform OWCP that it has so notified the claimant and provide OWCP with a copy of the information provided to the claimant.

(b) In special circumstances, i.e., where there is clear evidence showing a sufficient level of radiation exposure to qualify a claimant for benefits, OWCP may waive the above procedure for dose reconstruction.

(c) Following its receipt of the reconstructed dose from HHS, OWCP will consider whether the claimant has met the eligibility criteria set forth in subpart C.

Subpart C—Eligibility Criteria

General Provisions

§ 30.200 What is the scope of this subpart?

The regulations in this subpart describe the criteria for eligibility for benefits for claims relating to covered beryllium illness under sections 3621, 3623, 3628 and 3629 of the Act; for claims relating to employees with cancer under sections 3621, 3623, 3626 and 3629 of the Act; for claims relating to chronic silicosis disease under sections 3621, 3627, 3628 and 3629; and for claims relating to covered uranium employees under sections 3629 and 3630. This subpart describes the type and extent of evidence that will be accepted as evidence of the various criteria for eligibility for compensation for each of these illnesses.

Eligibility Criteria for Claims Relating to Covered Beryllium Illness

§ 30.205 What are the criteria for eligibility for benefits relating to covered beryllium illness?

To establish eligibility for benefits under this section, the claimant must establish the criteria set forth in pargraphs (a) and (b) of this section:

(a) The employee is a covered beryllium employee by establishing:

(1) The employee is a ''current or former employee as defined in 5 U.S.C. 8101(1)'' (see § 30.5(r) of this subpart) who may have been exposed to beryllium at a DOE facility or at a facility owned, operated, or occupied by a beryllium vendor; or

(2) The employee is a current or former employee of:

(i) Any entity that contracted with the DOE to provide management and operation, management and integration, or environmental remediation of a DOE facility; or

(ii) Any contractor or subcontractor that provided services, including construction and maintenance, at such a facility; or

(iii) A beryllium vendor, or of a contractor or subcontractor of a beryllium vendor, during a period when the vendor was engaged in activities related to the production or processing of beryllium for sale to, or use by, the DOE; and

(3) The employee was exposed to beryllium in the performance of duty by establishing that he or she was:

(i) Employed at a DOE facility (as defined in § 30.5(o) of this subpart); or

(ii) Present at a DOE facility, or a facility owned and operated by a beryllium vendor, because of his or her employment by the United States, a beryllium vendor, or a contractor or subcontractor of the DOE; during a period when beryllium dust, particles, or vapor may have been present at such a facility.

(b) The employee has one of the following:

(1) Beryllium sensitivity as established by an abnormal beryllium LPT performed on either blood or lung lavage cells.

(2) Established chronic beryllium disease.

(3) Any injury, illness, impairment, or disability sustained as a consequence of the conditions specified in paragraphs (b), (1) and (2) of this section.

§ 30.206 How does a claimant prove that the claimant was a ''covered beryllium employee'' exposed to beryllium dust, particles or vapor in the performance of duty?

(a) Proof of employment at or physical presence at a DOE facility, or a facility owned and operated by a beryllium vendor, because of employment by the United States, a beryllium vendor, or a contractor or subcontractor of the DOE during a period when beryllium dust, particles, or vapor may have been present at such a facility, may be made by the submission of any trustworthy contemporaneous records that, on their face or in conjunction with other such records, establish that the employee was employed or present at a covered facility and the time period of such employment or presence.

(b) Contemporaneous records from the following sources may be considered as evidence for purposes of establishing employment or presence at a covered facility:

(1) Records or documents created by any federal government agency (including verified information submitted for security clearance), any tribal government, or any state, county, city or local government office, agency, department, board or other entity, or other public agency or office.

(2) Records or documents created by any vendor, processor, or producer of beryllium or related products designated as a beryllium vendor by the DOE in accordance with section 3622 of the Act.

(3) Records or documents created by any regularly conducted business activity or entity that acted as a contractor or subcontractor to the DOE.

§ 30.207 How does a claimant prove diagnosis of a covered beryllium disease?

(a) Written medical documentation is required in all cases to prove that the employee developed a covered beryllium illness. Proof that the employee developed a covered beryllium illness must be made by using the procedures outlined in paragraphs (b), (c), (d), or (e) of this section.

(b) Beryllium sensitivity or sensitization is established with an abnormal LPT performed on either blood or lung lavage cells.

(c) Chronic beryllium disease is established in the following manner:

(1) For diagnoses on or after January 1, 1993, beryllium sensitivity (as established in accordance with paragraph (b) of this section), together with lung pathology consistent with chronic beryllium disease, including the following:

(i) A lung biopsy showing granulomas or a lymphocytic process consistent with chronic beryllium disease;

(ii) A computerized axial tomography scan showing changes consistent with chronic beryllium disease; or

(iii) Pulmonary function or exercise testing showing pulmonary deficits consistent with chronic beryllium disease.

(2) For diagnoses before January 1, 1993, the presence of the following:

(i) Occupational or environmental history, or epidemiologic evidence of beryllium exposure; and

(ii) Any three of the following criteria:

(A) Characteristic chest radiographic (or computed tomography (CT)) abnormalities.

(B) Restrictive or obstructive lung physiology testing or diffusing lung capacity defect.

(C) Lung pathology consistent with chronic beryllium disease.

(D) Clinical course consistent with chronic respiratory disorder.

(E) Immunologic tests showing beryllium sensitivity (skin patch test or beryllium blood test preferred).

(d) An injury, illness, impairment or disability sustained as a consequence of beryllium sensitivity or established chronic beryllium disease must be established with a fully rationalized medical report by a physician that shows the relationship between the injury, illness, impairment or disability and the beryllium sensitivity or established chronic beryllium disease. Neither the fact that the injury, illness, impairment or disability manifests itself after a diagnosis of beryllium sensitivity or established chronic beryllium disease, nor the belief of the claimant that the injury, illness, impairment or disability was caused by the beryllium sensitivity or established chronic beryllium disease is sufficient in itself to prove a causal relationship.

(e) The Secretary of Health and Human Services may, from time to time, and in consultation with the DOE, specify additional means of establishing the existence of a covered beryllium illness.

Eligibility Criteria for Claims Relating to Cancer

§ 30.210 What are the criteria for eligibility for benefits relating to cancer?

To establish eligibility for benefits for cancer, an employee or his or her survivor must show that:

(a) The employee has been diagnosed with one of the forms of cancer specified in section 4(b)(2) of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) and set forth in § 30.5(dd) of this subpart; and

(1) Is a member of the Special Exposure Cohort (as described in § 30.213(a) of this subpart) who, as a DOE employee or DOE contractor employee, contracted the specified cancer after beginning employment at a DOE facility; or

(2) Is a member of the Special Exposure Cohort (as described in § 30.213(a) of this subpart) who, as an atomic weapons employee, contracted the specified cancer after beginning employment at an atomic weapons employer facility (as defined in § 30.5(e)); or

(b) The employee has been diagnosed with cancer; and

(1) Is/was a DOE employee who contracted that cancer after beginning employment at a DOE facility; or

(2) Is/was a DOE contractor employee who contracted that cancer after beginning employment at a DOE facility; or

(3) Is/was an atomic weapons employee who contracted that cancer after beginning employment at an atomic weapons employer facility; and

(4) That the cancer was at least as likely as not related to the employment at the DOE facility or atomic weapons employer facility; or

(c) The employee has been diagnosed with an illness or disease that arose as a consequence of the accepted cancer.

§ 30.211 How does a claimant establish that the employee has or had contracted cancer?

A claimant establishes that the employee has or had contracted cancer with medical evidence that sets forth the diagnosis of cancer and the date on which that diagnosis was made.

§ 30.212 How does a claimant establish that the cancer was at least as likely as not related to the employment at the DOE facility or the atomic weapons employer facility?

HHS, with the advice of the Advisory Board on Radiation and Worker Health, will issue guidelines for making the determination whether cancer was at least as likely as not related to the employment at the DOE facility or the atomic weapons employer facility. Claimants should consult those guidelines for information regarding the type of evidence that will be considered by DOL, in addition to the employee's radiation dose reconstruction that will be provided by HHS, in making this determination.

§ 30.213 How does a claimant establish that the employee is a member of the Special Exposure Cohort?

(a) For purposes of establishing eligibility as a member of the Special Exposure Cohort (SEC) under § 30.210, the employee must have been a DOE employee, DOE contractor employee, or an atomic weapons employee who meets any of the following requirements:

(1) The employee was so employed for a number of workdays aggregating at least 250 workdays before February 1, 1992, at a gaseous diffusion plant located in Paducah, Kentucky; Portsmouth, Ohio; or Oak Ridge, Tennessee; and during such employment:

(i) Was monitored through the use of dosimetry badges for exposure at the plant of the external parts of the employee's body to radiation; or

(ii) Worked in a job that had exposures comparable to a job that is or was monitored through the use of dosimetry badges.

(2) The employee was so employed before January 7, 1974, by DOE or a DOE contractor or subcontractor on Amchitka Island, Alaska, and was exposed to ionizing radiation in the performance of duty related to the Long Shot, Milrow, or Cannikin underground nuclear tests.

(3) The employee is a member of a group or class of employees subsequently designated as additional members of the SEC by HHS.

(b) For purposes of satisfying the 250 workday requirement of paragraph (a)(1) of this section, the claimant may aggregate the days of service at more than one gaseous diffusion plant.

(c) Proof of employment by the DOE or a DOE contractor, or atomic weapons employer for the requisite time periods set forth in paragraph (a) of this section, may be made by the submission of any trustworthy contemporaneous records

that, on their face or in conjunction with other such records, establish that the employee was so employed and the time period(s) of such employment.

(d) Contemporaneous records from the following sources may be considered as evidence for purposes of establishing employment or presence at a covered facility:

(1) Records or documents created by any federal government agency (including verified information submitted for security clearance), any tribal government, or any state, county, city or local government office, agency, department, board or other entity, or other public agency or office.

(2) Records or documents created as a byproduct of any regularly conducted business activity or by an entity that acted as a contractor or subcontractor to the DOE.

§ 30.214 How does a claimant establish that the employee has been diagnosed with cancer or has sustained a consequential injury, illness or disease?

(a) Evidence that the employee contracted a specified cancer (in the case of SEC members) or other cancer should include a written medical document that contains an explicit statement of diagnosis and the date on which that diagnosis was first made.

(b) An injury, illness, impairment or disability sustained as a consequence of a diagnosed cancer covered by the provisions of § 30.210(a) and (b) must be established with a fully rationalized medical report by a physician that shows the relationship between the injury, illness, impairment or disability and the covered cancer. Neither the fact that the injury, illness, impairment or disability manifests itself after a diagnosis of a covered cancer, nor the belief of the claimant that the injury, illness, impairment or disability was caused by the covered cancer is sufficient in itself to prove a causal relationship.

Eligibility Criteria for Chronic Silicosis

§ 30.215 What are the criteria for eligibility for benefits relating to chronic silicosis?

To establish eligibility for benefits for chronic silicosis, a claimant must show that the employee was a covered employee with chronic silicosis by establishing that:

(a) The employee is a DOE employee, or a DOE contractor employee, who was present for a number of work days aggregating at least 250 work days during the mining of tunnels at a DOE facility (as defined in § 30.5(v)) located in Nevada or Alaska for tests or experiments related to an atomic weapon; and

(b) Has been diagnosed with chronic silicosis (as defined in § 30.5(j)).

§ 30.216 How does a claimant prove exposure to silica in the performance of duty?

(a) Proof of the employee's employment and presence for the requisite days during the mining of tunnels at a DOE facility located in Nevada or Alaska for tests of experiments related to an atomic weapon may be by the submission of any trustworthy contemporaneous records that, on their face or in conjunction with other such records, establish that the employee was so employed and present at these sites and the time period(s) of such employment and presence.

(b) Contemporaneous records from the following sources may be considered as evidence for purposes of establishing proof of employment or presence at a covered facility:

(1) Records or documents created by any federal government agency (including verified information submitted for security clearance), any tribal government, or any state, county, city or local government office, agency, department, board or other entity, or other public agency or office.

(2) Records or documents created as a byproduct of any regularly conducted business activity or by an entity that acted as a contractor or subcontractor to the DOE.

(c) For purposes of satisfying the 250 workday requirement of § 30.215(a), the claimant may aggregate the days of service at more than one qualifying site.

§ 30.217 How does a claimant prove the covered employee's diagnosis of chronic silicosis?

A written diagnosis of the employee's chronic silicosis (as defined in § 30.5(j)) shall be made by a medical doctor and accompanied by:

(a) A chest radiograph, interpreted by an individual certified by the National Institute for Occupational Safety and Health as a B reader, classifying the existence of pneumoconioses of category 1/1 or higher;

(b) Results from a computer assisted tomograph or other imaging technique that are consistent with silicosis; or

(c) Lung biopsy findings consistent with silicosis.

Eligibility of Certain Uranium Employees

§ 30.220 What are the criteria for eligibility for benefits for certain uranium employees?

(a) In order to be eligible for compensation under this section, the Attorney General must have determined that a claimant is a covered uranium employee or surviving eligible beneficiary of such employee who is entitled to payment of $100,000 as compensation due under section 5 of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) for a claim made under that Act.

(b) There is no requirement that the claimant or surviving eligible beneficiary has actually received payment pursuant to the RECA.

Subpart D—Adjudicatory Process

§ 30.300 What process will OWCP use to decide claims and to provide for administrative review of those decisions?

OWCP district offices will issue recommended decisions with respect to claims. All recommended decisions, including those granting and denying benefits under the Act, will be forwarded to the Final Adjudication Branch (FAB). Claimants will be given an opportunity to object to all or part of the recommended decision. The FAB will consider any objections filed by a claimant and conduct a hearing, if requested to do so by the claimant, before issuing a final decision on the claim.

Recommended Decisions on Claims

§ 30.305 How does OWCP determine entitlement to EEOICPA compensation?

(a) In reaching a recommended decision with respect to EEOICPA compensation, OWCP considers the claim presented by the claimant, the factual and medical evidence of record, the dose reconstruction report calculated by HHS (if any), the report submitted by DOE and the results of such investigation as OWCP may deem necessary.

(b) The OWCP claims staff applies the law, the regulations and its procedures to the facts as reported or obtained upon investigation.

§ 30.306 What does the recommended decision contain?

The recommended decision shall contain findings of fact and conclusions of law. The recommended decision may accept or reject the claim in its entirety, or it may accept or reject a portion of the claim presented. It is accompanied by information about the claimant's right to file specific objections with, and request a hearing before, the FAB.

§ 30.307 To whom is the recommended decision sent?

A copy of the recommended decision will be mailed to the claimant's last known address. However, if the claimant has a designated representative before OWCP, the copy of the

recommended decision will be mailed to the representative. Notification to either the claimant or the representative will be considered notification to both parties.

Hearings and Final Decisions on Claims

§ 30.310 How does a claimant object to a recommended decision on a claim?

(a) At the same time it issues a recommended decision on a claim, the OWCP district office will forward the record of such claim to the FAB. Any new evidence submitted to the district office following the issuance of the recommended decision will also be forwarded to the FAB for consideration.

(b) In a notice accompanying the recommended decision, the district office will request that the claimant specify, within 60 days from the date of issuance of such decision, whether he or she objects to any of the findings of fact and/or conclusions of law contained in the recommended decision, and whether a hearing is desired. Any objection, as well as any related request for a hearing, should be sent to the FAB at the address indicated in the notice.

(1) All objections to the recommended decision must be identified as specifically as possible by the date described above in paragraph (b) of this section, unless that date is extended by the FAB, or the FAB reviewer permits further objections at the hearing.

(2) Any objection not presented to the FAB within the time period described in this section, including any objection to HHS's reconstruction of the radiation dose to which the employee was exposed, whether or not the issue was previously presented to the district office, is deemed waived for all purposes.

§ 30.311 What action will the FAB take if the claimant does not file objections to the recommended decision?

(a) If no objections to specific findings of fact or conclusions of law are filed within the period of time allotted in § 30.310(b), the FAB will issue a decision affirming the recommended decision as provided in § 30.316, even if the claimant requests a hearing.

(b) If the recommended decision accepts all or part of a claim for compensation, the FAB may issue a decision at any time after receiving written notice from the claimant that he or she waives any objection to all or part of the recommended decision.

§ 30.312 What action will the FAB take if the claimant files objections but does not request a hearing?

If the claimant specifies objections to the recommended decision within the appropriate time period but does not request a hearing, the FAB will consider such objections by means of a review of the written record. If the claimant's objections only refer to part of the recommended decision, the FAB may issue a decision affirming the remaining part of the recommended decision without first reviewing the written record (see § 30.316).

§ 30.313 How is a review of the written record conducted?

(a) The FAB reviewer will review the record forwarded by the district office and any additional evidence and/or argument submitted by the claimant. The reviewer may also conduct whatever investigation is deemed necessary.

(b) The claimant should submit, with his or her statement specifying the findings of fact and/or conclusions of law contained in the district office's recommended decision to which he or she objects, all evidence or argument that he or she wants to present to the reviewer. However, evidence or argument may be submitted at any time up to the date specified by the reviewer for the submission of such evidence or argument.

§ 30.314 How is a hearing conducted?

(a) The FAB reviewer retains complete discretion to set the time and place of the hearing, including the amount of time allotted for the hearing, considering the issues to be resolved. At the discretion of the reviewer, the hearing may be conducted by telephone or teleconference. In addition to the evidence of record, the claimant may submit new evidence to the reviewer.

(b) Unless otherwise directed in writing by the claimant, the FAB reviewer will mail a notice of the time and place of the hearing to the claimant and any representative at least 30 days before the scheduled date. This notice will also include a listing of the issues to be addressed during the hearing. If the claimant only objects to a part of the recommended decision, the FAB reviewer may issue a decision affirming the remaining part of the recommended decision without first holding a hearing (see § 30.316).

(c) The hearing is an informal process, and the reviewer is not bound by common law or statutory rules of evidence, or by technical or formal rules of procedure. The reviewer may conduct the hearing in such manner as to best ascertain the rights of the claimant. During the hearing process, the claimant may state his or her arguments and present new written evidence and/or testimony in support of the claim.

(d) Testimony at hearings is recorded, then transcribed and placed in the record. Oral testimony shall be made under oath.

(e) The FAB reviewer will furnish a transcript of the hearing to the claimant, who has 20 days from the date it is sent to submit any comments to the reviewer.

(f) The claimant will have 30 days after the hearing is held to submit additional evidence or argument, unless the reviewer, in his or her sole discretion, grants an extension. Only one such extension may be granted.

(g) The reviewer determines the conduct of the hearing and may terminate the hearing at any time he or she determines that all relevant evidence has been obtained, or because of misbehavior on the part of the claimant and/or representative at or near the place of the oral presentation.

§ 30.315 May a claimant postpone a hearing?

(a) The FAB will entertain any reasonable request for scheduling the hearing, but such requests should be made at the time of the hearing request described in § 30.310(b). Scheduling is at the sole discretion of the FAB reviewer, and is not reviewable. Once the hearing is scheduled and appropriate written notice has been mailed, the hearing cannot be postponed at the claimant's request for any reason except those stated in paragraph (b) of this section, unless the FAB reviewer can reschedule the hearing on the same docket (that is, during the same hearing trip). When the request to postpone a scheduled hearing does not meet the test of paragraph (b) of this section and cannot be accommodated on the docket, no further opportunity for a hearing will be provided. Instead, the claimant's specified objections will be considered by means of a review of the written record. In the alternative, a teleconference may be substituted for the hearing at the discretion of the reviewer.

(b) Where the claimant is hospitalized for a reason which is not elective, or where the death of the claimant's parent, spouse, or child prevents attendance at the hearing, a postponement may be granted upon proper documentation.

(c) At any time after requesting a hearing, the claimant can request a change to a review of the written record by making a written request to the FAB. Once such a change is made, no further opportunity for a hearing will be provided.

§ 30.316 How does the FAB issue a final decision on a claim?

(a) If the 60-day period specified in the notice accompanying the recommended decision (plus any extension of such period granted by the FAB) for filing objections to the recommended decision expires and no objections have been filed, or if the claimant waives any objections to all or part of the recommended decision, the FAB will issue a decision affirming the recommended decision, either in whole or in part (see §§ 30.311, 30.312 and 30.314(a)).

(b) If the claimant files objections to all or part of the recommended decision, the FAB reviewer will issue a decision on the claim after either the hearing or the review of the written record, and after completing such further development of the case as he or she may deem necessary.

(c) Any recommended decision (or part thereof) that is pending either a hearing or a review of the written record for more than one year from the date the FAB receives the record from the district office shall be considered affirmed by the FAB on the one-year anniversary of such date.

(d) The decision of the FAB, whether issued pursuant to paragraph (a), (b) or (c) of this section, shall be final upon the expiration of 30 days from the date of issuance of such decision, unless a timely request for reconsideration under § 30.319 has been filed.

(e) A copy of the decision of the FAB will be mailed to the claimant's last known address. However, if the claimant has a designated representative before OWCP, the copy of the decision will be mailed to the representative. Notification to either the claimant or the representative will be considered notification to both parties.

§ 30.317 Can the FAB request a further response from the claimant or remand a claim to the district office?

At any time before the issuance of its decision, the FAB may request that the claimant submit additional evidence or argument, or remand the claim to the district office for further development without issuing a decision, whether or not requested to do so by the claimant.

§ 30.318 Can the FAB review a determination by HHS with respect to an employee's dose reconstruction?

(a) The FAB will review the factual determinations upon which HHS based its decision. Factual findings that do not appear to be supported by substantial evidence will be remanded to the district office for referral to HHS for further consideration.

(b) The methodology used by HHS in arriving at reasonable estimates of the radiation doses received by an employee, established by regulations issued by HHS, is binding on the FAB. The FAB reviewer may determine, however, that arguments concerning the application of that methodology should be considered by HHS and may remand the case to the district office for referral to HHS for such consideration.

§ 30.319 May a claimant request reconsideration of a decision of the FAB?

(a) A claimant may request reconsideration of a decision of the FAB by making a written request to the FAB within 30 days from the date of issuance of such decision.

(b) If the FAB grants the request for reconsideration, it will review the district office's recommended decision again and issue a new decision on the claim. A hearing is not available as part of the reconsideration process. If the FAB denies the request for reconsideration, the decision in question shall be final on the date the request is denied.

(c) A claimant may not seek judicial review of a decision on his or her claim under the Act until all administrative review opportunities have been exhausted and OWCP's decision on the claim is final pursuant to § 30.316(d).

Modification

§ 30.320 Can a final decision be modified once the period for requesting reconsideration has expired?

A final decision issued by the FAB may be modified at any time on OWCP's own motion. A final decision may also be modified on the motion of the claimant within one year of the date on which such decision became final, provided that the claimant can establish a mistake of fact in the decision, or changed conditions. Modification may be granted without regard to whether new evidence or information is presented or obtained. If OWCP determines that modification is warranted, it may issue a new recommended decision modifying the prior final decision.

(a) The decision whether or not to modify a final decision under this section is solely within the discretion of OWCP.

(b) Where OWCP grants modification of a final decision, any resulting recommended decision is subject to the adjudicatory process described in this subpart. However, the scope of review at the FAB will be limited to review of the merits of the recommended decision. OWCP's discretionary determination to modify the prior final decision is not reviewable.

(c) Nothing in this section shall prevent a claimant from filing another claim under the EEOICPA for compensation for an occupational illness or a consequential injury for which he or she has not previously sought compensation under the EEOICPA. In any event, however, no claimant may receive more than one award of monetary compensation under sections 3628(a)(1) or 3630(a) of the EEOICPA.

Subpart E—Medical and Related Benefits

Medical Treatment and Related Issues

§ 30.400 What are the basic rules for obtaining medical care?

(a) The covered employee who fits into at least one of the compensable claim categories is entitled to receive all medical services, appliances or supplies that a qualified physician prescribes or recommends and that OWCP considers necessary to treat his or her occupational illness, retroactive to the date the employee filed a claim for benefits under the EEOICPA (see § 30.100(c)). The employee need not be disabled to receive such treatment, and OWCP will pay for such treatment even if the covered employee dies before the claim is accepted. If there is any doubt as to whether a specific service, appliance or supply is necessary to treat the occupational illness, the employee should consult OWCP prior to obtaining it.

(b) Any qualified physician or qualified hospital may provide such services, appliances and supplies. A qualified provider of medical support services may also furnish appropriate services, appliances, and supplies. OWCP may apply a test of cost-effectiveness to appliances and supplies. With respect to prescribed medications, OWCP may require the use of generic equivalents where they are available.

§ 30.401 What are the special rules for the services of chiropractors?

(a) The services of chiropractors that may be reimbursed by OWCP are limited to treatment to correct a spinal subluxation. The costs of physical and related laboratory tests performed by or required by a chiropractor to diagnose such a subluxation are also payable.

(b) A diagnosis of spinal subluxation as demonstrated by x-ray to exist must appear in the chiropractor's report before OWCP can consider payment of a chiropractor's bill.

(c) A chiropractor may interpret his or her x-rays to the same extent as any other physician. To be given any weight, the medical report must state that x-rays support the finding of spinal subluxation. OWCP will not necessarily require submission of the x-ray, or a report of the x-ray, but the report must be available for submission on request.

(d) A chiropractor may also provide services in the nature of physical therapy under the direction of a qualified physician.

§ 30.402 What are the special rules for the services of clinical psychologists?

A clinical psychologist may serve as a physician within the scope of his or her practice as defined by state law. Therefore, a clinical psychologist may not serve as a physician for conditions that include a physical component unless the applicable state law allows clinical psychologists to treat physical conditions. A clinical psychologist may also perform testing, evaluation, and other services under the direction of a qualified physician.

§ 30.403 Will OWCP pay for the services of an attendant?

OWCP will authorize payment for personal care services under section 3629 of the EEOICPA, whether or not such care includes medical services, so long as the personal care services have been determined to be medically necessary and are provided by a home health aide, licensed practical nurse, or similarly trained individual.

§ 30.404 Will OWCP pay for transportation to obtain medical treatment?

The employee is entitled to reimbursement of reasonable and necessary expenses, including transportation needed to obtain authorized medical services, appliances or supplies. To determine what is a reasonable distance to travel, OWCP will consider the availability of services, the employee's condition, and the means of transportation. Generally, 25 miles from the work site or the employee's home is considered a reasonable distance to travel. The standard form designated for federal employees to claim travel expenses should be used to seek reimbursement under this section.

§ 30.405 After selecting a treating physician, may an employee choose to be treated by another physician instead?

(a) OWCP will provide the employee with an opportunity to designate a treating physician when it accepts the claim. When the physician originally selected to provide treatment for an occupational illness refers the employee to a specialist for further medical care, the employee need not consult OWCP for approval. In all other instances, however, the employee must submit a written request to OWCP with his or her reasons for desiring a change of physician.

(b) OWCP will approve the request if it determines that the reasons submitted are sufficient. Requests that are often approved include those for transfer of care from a general practitioner to a physician who specializes in treating occupational illnesses covered by the EEOICPA, or the need for a new physician when an employee has moved.

§ 30.406 Are there any exceptions to these procedures for obtaining medical care?

In cases involving emergencies or unusual circumstances, OWCP may authorize treatment in a manner other than as stated in this subpart.

Directed Medical Examinations

§ 30.410 Can OWCP require an employee to be examined by another physician?

OWCP sometimes needs a second opinion from a medical specialist. The employee must submit to examination by a qualified physician as often and at such times and places as OWCP considers reasonably necessary. The employee may have a qualified physician, paid by him or her, present at such examination. However, the employee is not entitled to have anyone else present at the examination unless OWCP decides that exceptional circumstances exist. For example, where a hearing-impaired employee needs an interpreter, the presence of an interpreter would be allowed. Also, OWCP may send a case file for second opinion review where actual examination is not needed, or where the employee is deceased.

§ 30.411 What happens if the opinion of the physician selected by OWCP differs from the opinion of the physician selected by the employee?

(a) If one medical opinion holds more probative value, OWCP will base its determination of entitlement on that medical conclusion. A difference in medical opinion sufficient to be considered a conflict occurs when two reports of virtually equal weight and rationale reach opposing conclusions.

(b) If a conflict exists between the medical opinion of the employee's physician and the medical opinion of either a second opinion physician or an OWCP medical adviser or consultant, OWCP shall appoint a third physician to make an examination. This is called a referee examination. OWCP will select a physician who is qualified in the appropriate specialty and who has had no prior connection with the case. The employee is not entitled to have anyone present at the examination unless OWCP decides that exceptional circumstances exist. For example, where a hearing-impaired employee needs an interpreter, the presence of an interpreter would be allowed. Also, a case file may be sent for referee medical review where there is no need for an actual examination, or where the employee is deceased.

§ 30.412 Who pays for second opinion and referee examinations?

OWCP will pay second opinion and referee medical specialists directly. OWCP will reimburse the employee all necessary and reasonable expenses incident to such an examination, including transportation costs and actual wages lost for the time needed to submit to an examination required by OWCP.

Medical Reports

§ 30.415 What are the requirements for medical reports?

In all cases reported to OWCP, a medical report from the attending physician is required. This report should include:

(a) Dates of examination and treatment;

(b) History given by the employee;

(c) Physical findings;

(d) Results of diagnostic tests;

(e) Diagnosis;

(f) Course of treatment;

(g) A description of any other conditions found due to the claimed occupational illness;

(h) The treatment given or recommended for the claimed occupational illness; and

(i) All other material findings.

§ 30.416 How and when should the medical report be submitted?

(a) The initial medical report (and any subsequent reports) should be made in narrative form on the physician's letterhead stationery. The physician should use the EE–7 as a guide for the preparation of his or her initial medical report. The report should bear the physician's signature or signature stamp. OWCP may require an original signature on the report.

(b) The report shall be submitted directly to OWCP as soon as possible after medical examination or treatment is received, either by the employee or the physician.

§ 30.417 What additional medical information may OWCP require to support continuing payment of benefits?

In all cases requiring hospital treatment or prolonged care, OWCP will request detailed narrative reports from the attending physician at periodic intervals. The physician will be asked to describe continuing medical treatment for the occupational illness accepted by OWCP, a prognosis, and the physician's opinion as to the continuing causal relationship between the need for additional treatment and the covered occupational illness.

Medical Bills

§ 30.420 How are medical bills submitted?

Usually, medical providers submit bills directly for processing. The rules for submitting and processing bills are stated in subpart H of this part. An employee claiming reimbursement of medical expenses should submit an itemized bill as described in § 30.702.

§ 30.421 What are the time frames for submitting bills?

To be considered for payment, bills must be submitted by the end of the calendar year after the year when the expense was incurred, or by the end of the calendar year after the year when OWCP first accepted the claim as compensable, whichever is later.

§ 30.422 If OWCP reimburses an employee only partially for a medical expense, must the provider refund the balance of the amount paid to the employee?

(a) The OWCP fee schedule sets maximum limits on the amounts payable for many services. The employee may be only partially reimbursed for medical expenses because the amount he or she paid to the medical provider for a service exceeds the maximum allowable charge set by the OWCP fee schedule.

(b) If this happens, OWCP shall advise the employee of the maximum allowable charge for the service in question and of his or her responsibility to ask the provider to refund to the employee, or credit to the employee's account, the amount he or she paid that exceeds the maximum allowable charge. The provider may request reconsideration of the fee determination as set forth in § 30.712.

(c) If the provider does not refund to the employee or credit to his or her account the amount of money paid in excess of the charge that OWCP allows, the employee should submit documentation of the attempt to obtain such refund or credit to OWCP. OWCP may authorize reasonable reimbursement to the employee after reviewing the facts and circumstances of the case.

Subpart F—Survivors; Payments and Offsets; Overpayments Survivors

§ 30.500 What special statutory definitions apply to survivors under the EEOICPA?

(a) EEOICPA provides that the classes of individuals listed as eligible ''survivors'' in section 8133 of title 5, United States Code, may also be eligible survivors under the EEOICPA. Those classes of individuals are specified in § 30.5(ee) of these regulations.

(b) EEOICPA adopts the order of precedence and proportions to be afforded to survivors as set forth in section 8109 of title 5, United States Code (see § 30.501).

§ 30.501 How will OWCP apply that order of precedence to determine what survivors are entitled to receive under the EEOICPA?

If OWCP determines that survivors are entitled to receive compensation under EEOICPA because a covered employee who would otherwise have been entitled to benefits is deceased, that compensation will be disbursed as follows, subject to the qualifications set forth in § 30.5(ee)(2) of these regulations:

(a) If there is no child, all to the widow or widower.

(b) If there are both a widow or widower and a child or children, one-half to the widow or widower and one-half to the child or children in equal shares.

(c) If there is no widow or widower, to the child or children in equal shares.

(d) If there is no survivor in the above classes, to the wholly or partly dependent parent or parents, and wholly dependent brother, sister, grandparent, or grandchild, in equal shares.

§ 30.502 When is entitlement for survivors determined for purposes of EEOICPA?

Entitlement to any lump-sum payment for survivor(s) under the EEOICPA will be determined as of the date of death of the covered employee.

Payment of Claims and Offset for Certain Payments

§ 30.505 What are the procedures for payment of claims?

(a) Except with respect to claims related to beryllium sensitivity, payment shall be made to the claimant, or to the legal guardian of the claimant, unless the claimant is deceased at the time of the payment. In cases involving a claimant who is deceased, payment shall be made to an eligible surviving beneficiary, or to the legal guardian acting on behalf of the eligible surviving beneficiary, in accordance with the terms and conditions specified in section 3628(e) of the EEOICPA.

(b) In cases involving the approval of a claim, OWCP shall take all necessary and appropriate steps to determine the correct amount of any offset to be made to the amount awarded under the EEOICPA, and to verify the identity of the claimant or the existence of any eligible surviving beneficiaries who allege to be entitled by the EEOICPA to receive all or part of the payment the claimant would have received. OWCP may conduct any investigation, require any claimant or eligible surviving beneficiary to provide or execute any affidavit, record, or document, or authorize the release of any information as OWCP deems necessary to ensure that the compensation payment is made in the correct amount and to the correct person(s). If the claimant or eligible surviving beneficiary fails or refuses to execute an affidavit or release of information, or provide a requested record or document, or fails to provide access to information, such failure or refusal may be deemed to be a rejection of the payment, unless the claimant or eligible surviving beneficiary of the claimant does not have and cannot obtain the legal authority to provide, release, or authorize access to the required information, records, or documents.

(c) Prior to authorizing payment, OWCP shall require the claimant or each eligible surviving beneficiary of a claim filed under these regulations to execute and provide an affidavit (or declaration under oath on the standard claim form) setting forth the amount of any payment made pursuant to a final award or settlement on a claim (other than a claim for workers' compensation), against any person, that is based on injuries incurred by the claimant for which his/her claim under the EEOICPA was submitted. For purposes of this subsection, a ''claim'' includes, but is not limited to, any request or demand for money made or sought in a civil action, or made or sought in anticipation of the filing of a civil action, but shall not include requests or demands made pursuant to a life insurance or health insurance contract. If any such award or settlement payment was made, OWCP shall subtract the sum of such award or settlement payments from the payment to be made under the EEOICPA. Prior to authorizing payment, OWCP shall also require the claimant or each surviving beneficiary to execute and provide any necessary affidavit described in § 30.617 of these regulations.

(d) Except as provided in paragraph (e) of this section, when OWCP has verified the identity of the claimant or each eligible surviving beneficiary who is entitled to the compensation payment, or to a share of the compensation payment, and determined the correct amount of the payment or the share of the payment, OWCP shall notify the claimant or each eligible surviving beneficiary, or his/her legal guardian, and require such person(s) to sign an Acceptance of Payment Form. Such form shall be signed and returned within sixty days of the date of the form or such greater period as may be allowed by OWCP. Failure to return the signed form within the required time may be deemed to be a rejection of the payment. Signing and returning the form within the required time shall constitute acceptance of the payment, unless the individual who has signed the form dies prior to receiving the actual payment, in which case the person who possesses the payment shall return it to OWCP for redetermination of the correct disbursement of the payment. No payment shall be made until OWCP has made a determination concerning the survivors related to a respective claim for benefits.

(e) Compensation for consequential illness or disease is limited to payment of medical benefits for that illness or disease.

(f) Rejected compensation payments, or shares of compensation payments, shall not be distributed to other eligible surviving beneficiaries, but shall be returned to the Fund for use in paying other claims.

(g) Upon receipt of the Acceptance of Payment Form, OWCP shall authorize the appropriate authorities to issue a check to the claimant or each surviving eligible beneficiary who has accepted payment out of the funds appropriated for this purpose.

(h) Multiple payments:

(1) No claimant may receive more than one lump-sum payment under these regulations for any occupational illnesses he or she contracted. However, he or she may also receive one lump-sum payment for each claimant for whom he or she qualifies as an eligible surviving beneficiary.

(2) An eligible surviving beneficiary, who is not also a claimant, may receive one lump-sum payment for each claimant for whom he or she qualifies as an eligible surviving beneficiary.

§ 30.506 What compensation will be provided to claimants who only establish beryllium sensitivity?

A covered employee whose sole occupational illness is beryllium sensitivity shall receive beryllium sensitivity monitoring. The establishment of beryllium sensitivity does not entitle the covered employee to any lump-sum payment or other medical benefits provided for under the EEOICPA.

§ 30.507 What is beryllium sensitivity monitoring?

Beryllium sensitivity monitoring shall consist of medical examinations to confirm and monitor the extent and nature of the individual's beryllium sensitivity. Monitoring shall also include regular medical examinations, including diagnostic testing to determine whether the individual has established chronic beryllium disease.

Overpayments

§ 30.510 How does OWCP notify an individual of a payment made on a claim?

(a) In addition to providing narrative descriptions to recipients of benefits paid or payable, OWCP includes on each check a clear indication of the reason the payment is being made. For payments sent by electronic funds transfer (EFT), a notification of the date and amount of payment appears on the statement from the recipient's financial institution.

(b) By these means, OWCP puts the recipient on notice that a payment was made and the amount of the payment. If the amount received differs from the amount indicated on the written notice or bank statement, the recipient is responsible for notifying OWCP of the difference. Absent affirmative evidence to the contrary, the beneficiary will be presumed to have received the notice of payment, whether mailed or transmitted electronically.

§ 30.511 What is an ''overpayment'' for purposes of the EEOICPA?

An ''overpayment'' is any amount of compensation paid under sections 3628(a)(1) or 3630(a) of the EEOICPA to a recipient that constitutes:

(a) Payment where no amount is payable under this part; or

(b) Payment in excess of the correct amount determined by OWCP.

§ 30.512 How does OWCP determine that a beneficiary owes a debt as the result of the creation of an overpayment?

OWCP will notify the beneficiary of the existence and amount of any overpayment, and request the beneficiary to voluntarily return the overpaid amount or provide OWCP with evidence and/or argument contesting the existence or amount of an overpayment. Within 30 days of the issuance of such notification, a beneficiary who believes that OWCP made a mistake in determining the fact or amount of an overpayment may submit written comments and documentation in support of his or her position contesting the existence or amount of such overpayment to OWCP. After considering any written documentation or argument submitted to OWCP within the 30-day period, OWCP will issue a determination on the question of whether a debt is owed to OWCP. If OWCP determines that a debt is owed by the beneficiary, it will forward a copy of that determination to the beneficiary and advise him or her that unless the debt is voluntarily repaid it will pursue collection of the overpayment through DOL's debt collection procedures found at 29 CFR part 20.

§ 30.513 How are overpayments collected?

The overpaid individual shall refund to OWCP the amount of the overpayment as soon as possible. The overpayment is subject to the provisions of the Federal Claims Collection Act of 1966 (as amended) and may be reported to the Internal Revenue Service as income. If the individual fails to make such refund, OWCP may recover the same through any available means, including offset of salary, annuity benefits, or other Federal payments, including tax refunds as authorized by the Tax Refund Offset Program, or referral of the debt to a collection agency or to the Department of Justice.

Subpart G—Special Provisions

Representation

§ 30.600 May a claimant designate a representative?

(a) The claims process under this part is informal, and OWCP acts as an impartial evaluator of the evidence. A claimant need not be represented to file a claim or receive a payment. Nevertheless, a claimant may appoint one individual to represent his or her interests, but the appointment must be in writing.

(b) There can be only one representative at any one time, so after one representative has been properly appointed, OWCP will not recognize another individual as representative until the claimant withdraws the authorization of the first individual. In addition, OWCP will recognize only certain types of individuals (see § 30.601).

(c) A properly appointed representative who is recognized by OWCP may make a request or give direction to OWCP regarding the claims process, including a hearing. This

authority includes presenting or eliciting evidence, making arguments on facts or the law, and obtaining information from the case file, to the same extent as the claimant. Any notice requirement contained in this part or the EEOICPA is fully satisfied if served on the representative, and has the same force and effect as if sent to the claimant.

§ 30.601 Who may serve as a representative?

A claimant may authorize any individual to represent him or her in regard to a claim under the EEOICPA, unless that individual's service as a representative would violate any applicable provision of law (such as 18 U.S.C. 205 and 208). A federal employee may act as a representative only:

(a) On behalf of immediate family members, defined as a spouse, children, parents, and siblings of the representative, provided no fee or gratuity is charged; or

(b) While acting as a union representative, defined as any officially sanctioned union official, and no fee or gratuity is charged.

§ 30.602 Who is responsible for paying the representative's fee?

A representative may charge the claimant a fee for services and for costs associated with the representation before OWCP. The claimant is solely responsible for paying the fee and other costs. OWCP will not reimburse the claimant, nor is it in any way liable for the amount of the fee and costs.

Third Party Liability

§ 30.605 What rights does the United States have upon payment of compensation under the EEOICPA?

If an illness for which compensation is payable under the EEOICPA is caused, wholly or partially, by someone other than a federal employee acting within the scope of his or her employment, a DOE contractor, or subcontractor, a beryllium vendor or atomic weapons employer, the United States is subrogated for the full amount of any payment of compensation under the EEOICPA to any right or claim that the individual to whom the payment was made may have against any person or entity on account of such illness.

§ 30.606 Under what circumstances must a recovery of money or other property in connection with an illness for which benefits are payable under the EEOICPA be reported to OWCP?

Any person who has filed an EEOICPA claim that has been accepted by OWCP (whether or not compensation has been paid), or who has received EEOICPA benefits in connection with a claim filed by another, is required to notify OWCP of the receipt of money or other property as a result of a settlement or judgment in connection with the circumstances of that claim.

§ 30.607 How is a structured settlement (that is, a settlement providing for receipt of funds over a specified period of time) treated for purposes of reporting the recovery?

In this situation, the recovery to be reported is the present value of the right to receive all of the payments included in the structured settlement, allocated in the case of multiple recipients in the same manner as single payment recoveries.

§ 30.608 How does the United States calculate the amount to which it is subrogated?

The subrogated amount of a specific claim consists of the total money paid by OWCP from the Energy Employees Occupational Illness Compensation Fund with respect to that claim to or on behalf of an employee or eligible surviving beneficiary, less charges for any medical file review (i.e., the physician does not examine the employee) done at the request of OWCP. Charges for medical examinations also may be subtracted if the employee or eligible surviving beneficiary establishes that the examinations were required to be made available to the employee under a statute other than the EEOICPA.

§ 30.609 Is a settlement or judgment received as a result of allegations of medical malpractice in treating an illness covered by the EEOICPA a recovery that must be reported to OWCP?

Since an injury caused by medical malpractice in treating an illness covered by the EEOICPA is also covered under the EEOICPA, any recovery in a suit alleging such an injury is treated as a recovery that must be reported to OWCP.

§ 30.610 Are payments to an employee or eligible surviving beneficiary as a result of an insurance policy which the employee or eligible surviving beneficiary has purchased a recovery that must be reported to OWCP?

Since payments received by an employee or eligible surviving beneficiary pursuant to an insurance policy purchased by someone other than a liable third party are not payments in satisfaction of liability for causing an illness covered by the EEOICPA, they are not considered a recovery that must be reported to OWCP.

§ 30.611 If a settlement or judgment is received for more than one medical condition, can the amount paid on a single EEOICPA claim be attributed to different conditions for purposes of calculating the amount to which the United States is subrogated?

(a) All medical conditions accepted by OWCP in connection with a single claim are treated as the same illness for the purpose of computing the amount to which the United States is subrogated in connection with the receipt of a recovery from a third party, except that an injury caused by medical malpractice in treating an illness covered under the EEOICPA will be treated as a separate injury.

(b) If an illness covered under the EEOICPA is caused under circumstances creating a legal liability in more than one person, other than the United States, a DOE contractor or subcontractor, a beryllium vendor or an atomic weapons employer, to pay damages, OWCP will determine whether recoveries received from one or more third parties should be attributed to separate conditions for which compensation is payable in connection with a single EEOICPA claim. If such an attribution is both practicable and equitable, as determined by OWCP, in its discretion, the conditions will be treated as separate injuries for purposes of calculating the amount to which the United States is subrogated.

Election of Remedy Against Beryllium Vendors and Atomic Weapons Employers

§ 30.615 Can a claimant receive benefits under the EEOICPA if he or she filed a tort suit against either a beryllium vendor or an atomic weapons employer on or prior to October 30, 2000?

A claimant who filed a tort suit against either a beryllium vendor or an atomic weapons employer on or prior to October 30, 2000, shall not be eligible to receive benefits under subtitle B of the EEOICPA unless he or she dismisses such suit no later than December 31, 2003.

§ 30.616 Can a claimant receive benefits under the EEOICPA if he or she filed a tort suit against either a beryllium vendor or an atomic weapons employer after October 30, 2000?

(a) Unless a tort suit filed under paragraphs (b) and (c) of this section is dismissed prior to the time limitations described in those subsections, the plaintiff shall not be eligible to receive benefits under subtitle B of the EEOICPA.

(b) If a claimant files a tort suit against either a beryllium vendor or an atomic weapons employer after October 30,

2000, such a suit must be filed by the later of:

(1) April 30, 2003; or

(2) 30 months after the date the plaintiff first became aware that his or her illness may be connected to the exposure covered by subtitle B of the EEOICPA.

(c) For purposes of this section only, ''the date the plaintiff first became aware'' will be deemed to be the date he or she received either a reconstructed dose from the HHS, or a diagnosis of a covered beryllium illness, as applicable.

(d) If a claimant files a tort suit against either a beryllium vendor or an atomic weapons employer after the later of the dates described in paragraphs (b) and (c) of this section, he or she is not entitled to any benefits under subtitle B of the EEOICPA.

§ 30.617 How will OWCP ascertain whether a claimant filed a tort suit against either a beryllium vendor or an atomic weapons employer and whether such claimant is entitled to benefits under the EEOICPA?

Prior to authorizing any payment on a claim under § 30.505 of these regulations, OWCP will require the claimant or each surviving beneficiary to execute and provide an affidavit stating whether he or she filed a tort suit against either a beryllium vendor or an atomic weapons employer, and if so, the date such tort suit was dismissed. OWCP may require the submission of such supporting evidence as may be necessary to confirm the particulars of any affidavit provided under this section.

Subpart H—Information for Medical Providers

Medical Records and Bills

§ 30.700 What kinds of medical records must providers keep?

Federal government medical officers, private physicians and hospitals are required to keep records of all cases treated by them under the EEOICPA so they can supply OWCP with a history of the claimed occupational illness, a description of the nature and extent of the claimed occupational illness, the results of any diagnostic studies performed, and the nature of the treatment rendered.

§ 30.701 How are medical bills to be submitted?

(a) All charges for medical and surgical treatment, appliances or supplies furnished to employees, except for treatment and supplies provided by nursing homes, shall be supported by medical evidence as provided in § 30.700. The physician or provider shall itemize the charges on the standard Health Insurance Claim Form, HCFA 1500 or OWCP 1500 (for professional charges), the UB–92 (for hospitals), the Universal Claim Form (for pharmacies), or other form as warranted, and submit the form promptly for processing.

(b) The provider shall identify each service performed using the Physician's Current Procedural Terminology (CPT) code, the Health Care Financing Administration Common Procedure Coding System (HCPCS) code, the National Drug Code (NDC), or the Revenue Center Code (RCC), with a brief narrative description. Where no code is applicable, a detailed description of services performed should be provided.

(c) The provider shall also state each diagnosed condition and furnish the corresponding diagnostic code using the ''International Classification of Disease, 9th Edition, Clinical Modification'' (ICD–9–CM), or as revised. A separate bill shall be submitted when the employee is discharged from treatment or monthly, if treatment for the occupational illness is necessary for more than 30 days.

(1)(i) Hospitals shall submit charges for medical and surgical treatment or supplies promptly on the UB–92. The provider shall identify each outpatient radiology service, outpatient pathology service and physical therapy service performed, using HCPCS/CPT codes with a brief narrative description. The charge for each individual service, or the total charge for all identical services, should also appear in the UB–92.

(ii) Other outpatient hospital services for which HCPCS/CPT codes exist shall also be coded individually using the coding scheme noted in this section. Services for which there are no HCPCS/CPT codes available can be presented using the RCCs described in the ''National Uniform Billing Data Elements Specifications,'' current edition. The provider shall also furnish the diagnostic code using the ICD–9–CM. If the outpatient hospital services include surgical and/or invasive procedures, the provider shall code each procedure using the proper CPT/HCPCS codes and furnishing the corresponding diagnostic codes using the ICD–9–CM.

(2) Pharmacies shall itemize charges for prescription medications, appliances, or supplies on the Universal Claim Form and submit them promptly for processing. Bills for prescription medications must include the NDC assigned to the product, the generic or trade name of the drug provided, the prescription number, the quantity provided, and the date the prescription was filled.

(3) Nursing homes shall itemize charges for appliances, supplies or services on the provider's billhead stationery and submit them promptly for processing.

(d) By submitting a bill and/or accepting payment, the provider signifies that the service for which reimbursement is sought was performed as described and was necessary. In addition, the provider thereby agrees to comply with all regulations set forth in this subpart concerning the rendering of treatment and/or the process for seeking reimbursement for medical services, including the limitation imposed on the amount to be paid for such services.

(e) In summary, bills submitted by providers must: be itemized on the Health Insurance Claim Form (for physicians), the UB–92 (for hospitals), or the Universal Claim Form (for pharmacies); contain the signature or signature stamp of the provider; and identify the procedures using HCPCS/CPT codes, RCCs, or NDCs. Otherwise, the bill may be returned to the provider for correction and resubmission.

§ 30.702 How should an employee prepare and submit requests for reimbursement for medical expenses, transportation costs, loss of wages, and incidental expenses?

(a) If an employee has paid bills for medical, surgical or other services, supplies or appliances due to an occupational illness, he or she may submit an itemized bill on the Health Insurance Claim Form, HCFA 1500 or OWCP 1500, together with a medical report as provided in § 30.700, for consideration.

(1) The provider of such service shall state each diagnosed condition and furnish the applicable ICD–9–CM code and identify each service performed using the applicable HCPCS/CPT code, with a brief narrative description of the service performed, or, where no code is applicable, a detailed description of that service.

(2) The bill must be accompanied by evidence that the provider received payment for the service from the employee and a statement of the amount paid. Acceptable evidence that payment was received includes, but is not limited to, a signed statement by the provider, a mechanical stamp or other device showing receipt of payment, a copy of the employee's canceled check (both front and back) or a copy of the employee's credit card receipt.

(b) If a hospital, pharmacy or nursing home provided services, the employee should submit the bill in accordance with the provisions of § 30.701(a). Any request for reimbursement must be accompanied by evidence, as described

in paragraph (a) of this section, that the provider received payment for the service from the employee and a statement of the amount paid.

(c) The requirements of paragraphs (a) and (b) of this section may be waived if extensive delays in the filing or the adjudication of a claim make it unusually difficult for the employee to obtain the required information.

(d) Copies of bills submitted for reimbursement will not be accepted unless they bear the original signature of the provider, with evidence of payment. Payment for medical and surgical treatment, appliances or supplies shall in general be no greater than the maximum allowable charge for such service determined by OWCP, as set forth in § 30.705.

(e) An employee will be only partially reimbursed for a medical expense if the amount he or she paid to a provider for the service exceeds the maximum allowable charge set by OWCP's schedule. If this happens, OWCP will advise the employee of the maximum allowable charge for the service in question and of his or her responsibility to ask the provider to refund to the employee, or credit to the employee's account, the amount he or she paid which exceeds the maximum allowable charge. The provider may request reconsideration of the fee determination as set forth in § 30.712.

(f) If the provider fails to make appropriate refund to the employee, or to credit the employee's account, within 60 days after the employee requests a refund of any excess amount, or the date of a subsequent reconsideration decision which continues to disallow all or a portion of the appealed amount, OWCP will initiate exclusion procedures as provided by § 30.715.

(g) If the provider does not refund to the employee or credit to his or her account the amount of money paid in excess of the allowed charge, the employee should submit documentation of the attempt to obtain such refund or credit to OWCP. OWCP may authorize reasonable reimbursement to the employee after reviewing the facts and circumstances of the case.

§ 30.703 What are the time limitations on OWCP's payment of bills?

OWCP will pay providers and reimburse employees promptly for all bills received on an approved form and in a timely manner. However, no bill will be paid for expenses incurred if the bill is submitted more than one year beyond the end of the calendar year in which the expense was incurred or the service or supply was provided, or more than one year beyond the end of the calendar year in which the claim was first accepted as compensable by OWCP, whichever is later.

Medical Fee Schedule

§ 30.705 What services are covered by the OWCP fee schedule?

(a) Payment for medical and other health services furnished by physicians, hospitals and other providers for occupational illnesses shall not exceed a maximum allowable charge for such service as determined by OWCP, except as provided in this section.

(b) The schedule of maximum allowable charges does not apply to charges for services provided in nursing homes, but it does apply to charges for treatment furnished in a nursing home by a physician or other medical professional.

(c) The schedule of maximum allowable charges also does not apply to charges for appliances, supplies, services or treatment furnished by medical facilities of the U.S. Public Health Service or the Departments of the Army, Navy, Air Force and Veterans Affairs.

§ 30.706 How are the maximum fees defined?

For professional medical services, OWCP shall maintain a schedule of maximum allowable fees for procedures performed in a given locality. The schedule shall consist of: an assignment of a value to procedures identified by HCPCS/CPT code which represents the relative skill, effort, risk and time required to perform the procedure, as compared to other procedures of the same general class; an index based on a relative value scale that considers skill, labor, overhead, malpractice insurance and other related costs; and a monetary value assignment (conversion factor) for one unit of value in each of the categories of service.

§ 30.707 How are payments for particular services calculated?

Payment for a procedure identified by a HCPCS/CPT code shall not exceed the amount derived by multiplying the relative values for that procedure by the geographic indices for services in that area and by the dollar amount assigned to one unit in that category of service.

(a) The ''locality'' which serves as a basis for the determination of average cost is defined by the Bureau of Census Metropolitan Statistical Areas. OWCP shall base the determination of the relative per capita cost of medical care in a locality using information about enrollment and medical cost per county, provided by the Health Care Financing Administration (HCFA).

(b) OWCP shall assign the relative value units (RVUs) published by HCFA to all services for which HCFA has made assignments, using the most recent revision. Where there are no RVUs assigned to a procedure, OWCP may develop and assign any RVUs considered appropriate. The geographic adjustment factor shall be that designated by Geographic Practice Cost Indices for Metropolitan Statistical Areas as devised for HCFA and as updated or revised by HCFA from time to time. OWCP will devise conversion factors for each category of service, and in doing so may adapt HCFA conversion factors as appropriate using OWCP's processing experience and internal data.

(c) For example, if the unit values for a particular surgical procedure are 2.48 for physician's work (W), 3.63 for practice expense (PE), and 0.48 for malpractice insurance (M), and the dollar value assigned to one unit in that category of service (surgery) is $61.20, then the maximum allowable charge for one performance of that procedure is the product of the three RVUs times the corresponding geographical indices for the locality times the conversion factor. If the geographic indices for the locality are 0.988(W), 0.948 (PE), and 1.174 (M), then the maximum payment calculation is:

$$[(2.48)(0.988) + (3.63)(0.948) + (0.48)(1.174)] \times \$61.20$$
$$[2.45 + 3.44 + .56] \times \$61.20$$
$$6.45 \times \$61.20 = \$394.74$$

§ 30.708 Does the fee schedule apply to every kind of procedure?

Where the time, effort and skill required to perform a particular procedure vary widely from one occasion to the next, OWCP may choose not to assign a relative value to that procedure. In this case the allowable charge for the procedure will be set individually based on consideration of a detailed medical report and other evidence. At its discretion, OWCP may set fees without regard to schedule limits for specially authorized consultant examinations, for directed medical examinations, and for other specially authorized services.

§ 30.709 How are payments for medicinal drugs determined?

Payment for medicinal drugs prescribed by physicians shall not exceed the amount derived by multiplying the average wholesale price of the medication by the quantity or amount provided, plus a dispensing fee.

(a) All prescription medications identified by National Drug Code (NDC) will be assigned an average wholesale price representing the product's

nationally recognized wholesale price as determined by surveys of manufacturers and wholesalers. OWCP will establish the dispensing fee.

(b) The NDCs, the average wholesale prices, and the dispensing fee shall be reviewed from time to time and updated as necessary.

§ 30.710 How are payments for inpatient medical services determined?

(a) OWCP will pay for inpatient medical services according to pre-determined, condition-specific rates based on the Prospective Payment System (PPS) devised by HCFA (42 CFR parts 412, 413, 424, 485, and 489). Using this system, payment is derived by multiplying the diagnosis-related group (DRG) weight assigned to the hospital discharge by the provider-specific factors.

(1) All hospital discharges will be classified according to the DRGs prescribed by the HCFA in the form of the DRG Grouper software program. On this list, each DRG represents the average resources necessary to provide care in a case in that DRG relative to the national average of resources consumed per case.

(2) The provider-specific factors will be provided by HCFA in the form of their PPS Pricer software program. The software takes into consideration the type of facility, census division, actual geographic location (MSA) of the hospital, case mix cost per discharge, number of hospital beds, intern/beds ratio, operating cost to charge ratio, and other factors used by HCFA to determine the specific rate for a hospital discharge under their PPS. OWCP may devise price adjustment factors as appropriate using OWCP's processing experience and internal data.

(3) OWCP will base payments to facilities excluded from HCFA's PPS on consideration of detailed medical reports and other evidence.

(4) OWCP shall review the pre-determined hospital rates at least once a year, and may adjust any or all components when OWCP deems it necessary or appropriate.

(b) OWCP shall review the schedule of fees at least once a year, and may adjust the schedule or any of its components when OWCP deems it necessary or appropriate.

§ 30.711 When and how are fees reduced?

(a) OWCP shall accept a provider's designation of the code to identify a billed procedure or service if the code is consistent with medical reports and other evidence. Where no code is supplied, OWCP may determine the code based on the narrative description of the procedure on the billing form and in associated medical reports. OWCP will pay no more than the maximum allowable fee for that procedure.

(b) If the charge submitted for a service supplied to an employee exceeds the maximum amount determined to be reasonable according to the schedule, OWCP shall pay the amount allowed by the schedule for that service and shall notify the provider in writing that payment was reduced for that service in accordance with the schedule. OWCP shall also notify the provider of the method for requesting reconsideration of the balance of the charge.

§ 30.712 If OWCP reduces a fee, may a provider request reconsideration of the reduction?

(a) A physician or other provider whose charge for service is only partially paid because it exceeds a maximum allowable amount set by OWCP may, within 30 days, request reconsideration of the fee determination.

(1) The provider should make such a request to the district office with jurisdiction over the employee's claim. The request must be accompanied by documentary evidence that the procedure performed was incorrectly identified by the original code, that the presence of a severe or concomitant medical condition made treatment especially difficult, or that the provider possessed unusual qualifications. In itself, board certification in a specialty is not sufficient evidence of unusual qualifications to justify an exception. These are the only three circumstances that will justify reevaluation of the paid amount.

(2) A list of district offices and their respective areas of jurisdiction is available upon request from the U.S. Department of Labor, Office of Workers' Compensation Programs, Washington, DC 20210, or from OWCP's home page on the Internet at www.dol.gov/dol/esa/public/owcp_org.htm. Within 30 days of receiving the request for reconsideration, the district office shall respond in writing stating whether or not an additional amount will be allowed as reasonable, considering the evidence submitted.

(b) If the district office issues a decision that continues to disallow a contested amount, the provider may apply to the Regional Director of the region with jurisdiction over the district office. The application must be filed within 30 days of the date of such decision, and it may be accompanied by additional evidence. Within 60 days of receipt of such application, the Regional Director shall issue a decision in writing stating whether or not an additional amount will be allowed as reasonable, considering the evidence submitted.

§ 30.713 If OWCP reduces a fee, may a provider bill the employee for the balance?

A provider whose fee for service is partially paid by OWCP as a result of the application of its fee schedule or other tests for reasonableness in accordance with this part shall not request reimbursement from the employee for additional amounts.

(a) Where a provider's fee for a particular service or procedure is lower to the general public than as provided by the schedule of maximum allowable charges, the provider shall bill at the lower rate. A fee for a particular service or procedure which is higher than the provider's fee to the general public for that same service or procedure will be considered a charge ''substantially in excess of such provider's customary charges'' for the purposes of § 30.715(d).

(b) A provider whose fee for service is partially paid by OWCP as the result of the application of the schedule of maximum allowable charges and who collects or attempts to collect from the employee, either directly or through a collection agent, any amount in excess of the charge allowed by OWCP, and who does not cease such action or make appropriate refund to the employee within 60 days of the date of the decision of OWCP, shall be subject to the exclusion procedures provided by § 30.715(h).

Exclusion of Providers

§ 30.715 What are the grounds for excluding a provider from payment under this part?

A physician, hospital, or provider of medical services or supplies shall be excluded from payment under this part if such physician, hospital or provider has:

(a) Been convicted under any criminal statute of fraudulent activities in connection with any federal or state program for which payments are made to providers for similar medical, surgical or hospital services, appliances or supplies;

(b) Been excluded or suspended, or has resigned in lieu of exclusion or suspension, from participation in any federal or state program referred to in paragraph (a) of this section;

(c) Knowingly made, or caused to be made, any false statement or misrepresentation of a material fact in connection with a determination of the right to reimbursement under this part, or in connection with a request for payment;

(d) Submitted, or caused to be submitted, three or more bills or requests for payment within a 12-month period under this subpart containing charges which OWCP finds to be substantially in excess of such provider's customary charges, unless OWCP finds there is good cause for the bills or requests containing such charges;

(e) Knowingly failed to timely reimburse employees for treatment, services or supplies furnished under this subpart and paid for by OWCP;

(f) Failed, neglected or refused on three or more occasions during a 12-month period to submit full and accurate medical reports, or to respond to requests by OWCP for additional reports or information, as required by § 30.700 of this part;

(g) Knowingly furnished treatment, services or supplies which are substantially in excess of the employee's needs, or of a quality which fails to meet professionally recognized standards; or

(h) Collected or attempted to collect from the employee, either directly or through a collection agent, an amount in excess of the charge allowed by OWCP for the procedure performed, and has failed or refused to make appropriate refund to the employee, or to cease such collection attempts, within 60 days of the date of the decision of OWCP.

§ 30.716 What will cause OWCP to automatically exclude a physician or other provider of medical services and supplies?

(a) OWCP shall automatically exclude a physician, hospital, or provider of medical services or supplies who has been convicted of a crime described in § 30.715(a), or has been excluded or suspended, or has resigned in lieu of exclusion or suspension, from participation in any program as described in § 30.715(b).

(b) The exclusion applies to participating in the program and to seeking payment under this part for services performed after the date of the entry of the judgment of conviction or order of exclusion, suspension or resignation, as the case may be, by the court or agency concerned. Proof of the conviction, exclusion, suspension or resignation may consist of a copy thereof authenticated by the seal of the court or agency concerned.

§ 30.717 When are OWCP's exclusion procedures initiated?

Upon receipt of information indicating that a physician, hospital or provider of medical services or supplies (hereinafter the provider) has engaged in activities enumerated in paragraphs (c) through (h) of § 30.715, the Regional Director, after completion of inquiries he or she deems appropriate, may initiate procedures to exclude the provider from participation in the EEOICPA program. For the purposes of these procedures, ''Regional Director'' may include any officer designated to act on his or her behalf.

§ 30.718 How is a provider notified of OWCP's intent to exclude him or her?

The Regional Director shall initiate the exclusion process by sending the provider a letter, by certified mail and with return receipt requested, which shall contain the following:

(a) A concise statement of the grounds upon which exclusion shall be based;

(b) A summary of the information, with supporting documentation, upon which the Regional Director has relied in reaching an initial decision that exclusion proceedings should begin;

(c) An invitation to the provider to:

(1) Resign voluntarily from participation in the EEOICPA program without admitting or denying the allegations presented in the letter; or

(2) Request that the decision on exclusion be based upon the existing record and any additional documentary information the provider may wish to furnish;

(d) A notice of the provider's right, in the event of an adverse ruling by the Regional Director, to request a formal hearing before an administrative law judge;

(e) A notice that should the provider fail to answer (as described in § 30.719) the letter of intent within 30 calendar days of receipt, the Regional Director may deem the allegations made therein to be true and may order exclusion of the provider without conducting any further proceedings; and

(f) The name and address of the OWCP representative who shall be responsible for receiving the answer from the provider.

§ 30.719 What requirements must the provider's reply and OWCP's decision meet?

(a) The provider's answer shall be in writing and shall include an answer to OWCP's invitation to resign voluntarily. If the provider does not offer to resign, he or she shall request that a determination be made upon the existing record and any additional information provided.

(b) Should the provider fail to answer the letter of intent within 30 calendar days of receipt, the Regional Director may deem the allegations made therein to be true and may order exclusion of the provider.

(c) By arrangement with the official representative, the provider may inspect or request copies of information in the record at any time prior to the Regional Director's decision.

(d) The Regional Director shall issue his or her decision in writing, and shall send a copy of the decision to the provider by certified mail, return receipt requested. The decision shall advise the provider of his or her right to request, within 30 days of the date of the adverse decision, a formal hearing before an administrative law judge under the procedures set forth in § 30.720. The filing of a request for a hearing within the time specified shall stay the effectiveness of the decision to exclude.

§ 30.720 How can an excluded provider request a hearing?

A request for a hearing shall be sent to the official representative named under § 30.718(f) and shall contain:

(a) A concise notice of the issues on which the provider desires to give evidence at the hearing;

(b) Any request for a more definite statement by OWCP;

(c) Any request for the presentation of oral argument or evidence; and

(d) Any request for a certification of questions concerning professional medical standards, medical ethics or medical regulation for an advisory opinion from a competent recognized professional organization or federal, state or local regulatory body.

§ 30.721 How are hearings assigned and scheduled?

(a) If the designated OWCP representative receives a timely request for hearing, the OWCP representative shall refer the matter to the Chief Administrative Law Judge of the Department of Labor, who shall assign it for an expedited hearing. The administrative law judge assigned to the matter shall consider the request for hearing, act on all requests therein, and issue a Notice of Hearing and Hearing Schedule for the conduct of the hearing. A copy of the hearing notice shall be served on the provider by certified mail, return receipt requested. The Notice of Hearing and Hearing Schedule shall include:

(1) A ruling on each item raised in the request for hearing;

(2) A schedule for the prompt disposition of all preliminary matters, including requests for more definite statements and for the certification of questions to advisory bodies; and

(3) A scheduled hearing date not less than 30 days after the date the schedule is issued, and not less than 15 days after the scheduled conclusion of preliminary matters, provided that the specific time and place of the hearing may be set on 10 days' notice.

(b) The purpose of the designation of issues is to provide for an effective hearing process. The provider is entitled to be heard on any matter placed in issue by his or her response to the Notice of Intent to Exclude, and may designate ''all issues'' for purposes of hearing. However, a specific designation of issues is required if the provider wishes to interpose affirmative defenses or request the certification of questions for an advisory opinion.

§ 30.722 How are advisory opinions obtained?

A certification of a request for an advisory opinion concerning professional medical standards, medical ethics or medical regulation to a competent recognized or professional organization or federal, state or local regulatory agency may be made:

(a) As to an issue properly designated by the provider, in the sound discretion of the administrative law judge, provided that the request will not unduly delay the proceedings;

(b) By OWCP on its own motion either before or after the institution of proceedings, and the results thereof shall be made available to the provider at the time that proceedings are instituted or, if after the proceedings are instituted, within a reasonable time after receipt. The opinion, if rendered by the organization or agency, is advisory only and not binding on the administrative law judge.

§ 30.723 How will the administrative law judge conduct the hearing and issue the recommended decision?

(a) To the extent appropriate, proceedings before the administrative law judge shall be governed by 29 CFR part 18.

(b) The administrative law judge shall receive such relevant evidence as may be adduced at the hearing. Evidence shall be presented under oath, orally or in the form of written statements. The administrative law judge shall consider the Notice and Response, including all pertinent documents accompanying them, and may also consider any evidence which refers to the provider or to any claim with respect to which the provider has provided medical services, hospital services, or medical services and supplies, and such other evidence as the administrative law judge may determine to be necessary or useful in evaluating the matter.

(c) All hearings shall be recorded and the original of the complete transcript shall become a permanent part of the official record of the proceedings.

(d) In conjunction with the hearing, the administrative law judge may:

(1) Administer oaths; and

(2) Examine witnesses.

(e) At the conclusion of the hearing, the administrative law judge shall issue a written decision and cause it to be served on all parties to the proceeding, their representatives and OWCP.

§ 30.724 How can a party request review by OWCP of the administrative law judge's recommended decision?

(a) Any party adversely affected or aggrieved by the decision of the administrative law judge may file a petition for discretionary review with the Director for Energy Employees Occupational Illness Compensation within 30 days after issuance of such decision. The administrative law judge's decision, however, shall be effective on the date issued and shall not be stayed except upon order of the Director.

(b) Review by the Director for Energy Employees Occupational Illness Compensation shall not be a matter of right but of the sound discretion of the Director.

(c) Petitions for discretionary review shall be filed only upon one or more of the following grounds:

(1) A finding or conclusion of material fact is not supported by substantial evidence;

(2) A necessary legal conclusion is erroneous;

(3) The decision is contrary to law or to the duly promulgated rules or decisions of OWCP;

(4) A substantial question of law, policy, or discretion is involved; or

(5) A prejudicial error of procedure was committed.

(d) Each issue shall be separately numbered and plainly and concisely stated, and shall be supported by detailed citations to the record when assignments of error are based on the record, and by statutes, regulations or principal authorities relied upon. Except for good cause shown, no assignment of error by any party shall rely on any question of fact or law upon which the administrative law judge had not been afforded an opportunity to pass.

(e) A statement in opposition to the petition for discretionary review may be filed, but such filing shall in no way delay action on the petition.

(f) If a petition is granted, review shall be limited to the questions raised by the petition.

(g) A petition not granted within 20 days after receipt of the petition is deemed denied.

§ 30.725 What are the effects of non-automatic exclusion?

(a) OWCP shall give notice of the exclusion of a physician, hospital or provider of medical services or supplies to:

(1) All OWCP district offices;

(2) The HCFA; and

(3) All employees who are known to have had treatment, services or supplies from the excluded provider within the six-month period immediately preceding the order of exclusion.

(b) Notwithstanding any exclusion of a physician, hospital, or provider of medical services or supplies under this subpart, OWCP shall not refuse an employee reimbursement for any otherwise reimbursable medical treatment, service or supply if:

(1) Such treatment, service or supply was rendered in an emergency by an excluded physician; or

(2) The employee could not reasonably have been expected to know of such exclusion.

(c) An employee who is notified that his or her attending physician has been excluded shall have a new right to select a qualified physician.

§ 30.726 How can an excluded provider be reinstated?

(a) If a physician, hospital, or provider of medical services or supplies has been automatically excluded pursuant to § 30.716, the provider excluded will automatically be reinstated upon notice to OWCP that the conviction or exclusion which formed the basis of the automatic exclusion has been reversed or withdrawn. However, an automatic reinstatement shall not preclude OWCP from instituting exclusion proceedings based upon the underlying facts of the matter.

(b) A physician, hospital, or provider of medical services or supplies excluded from participation as a result of an order issued pursuant to this subpart may apply for reinstatement one year after the entry of the order of exclusion, unless the order expressly provides for a shorter period. An application for reinstatement shall be addressed to the Director for Energy Employees Occupational Illness Compensation, and shall contain a concise statement of the basis for the application. The application should be accompanied by supporting documents and affidavits.

(c) A request for reinstatement may be accompanied by a request for oral argument. Oral argument will be allowed only in unusual circumstances where it will materially aid the decision process.

(d) The Director for Energy Employees Occupational Illness Compensation shall order reinstatement only in instances where such reinstatement is clearly consistent with the goal of this subpart to protect the EEOICPA program

against fraud and abuse. To satisfy this requirement the provider must provide reasonable assurances that the basis for the exclusion will not be repeated.

Signed at Washington, DC., this 18th day of May, 2001.

Elaine L. Chao,

Secretary of Labor.

Note: The following appendix will not appear in the Code of Federal Regulations.

BILLING CODE 4510–CH–P

Appendix I.—Forms EE–1, EE–2, EE–3, EE–4, EE–7, EE/EN–15, EE/EN–20 and EE–915.

Claim for Benefits under Energy Employees Occupational Illness Compensation Program Act

U.S. Department of Labor
Employment Standards Administration
Office of Workers' Compensation Programs

Provide all information requested below. **DO NOT FILL IN SHADED AREAS.** Disclosure of your social security number is voluntary. Failure to disclose this number will not result in the denial of any right, benefit or privilege to which you may be entitled.

OMB No.:
Expires:

EMPLOYEE INFORMATION

1. Name *(Last, First, Middle Initial)*

2. Social Security Number

3. Sex ☐ Male ☐ Female

4. Address *(Street, Apt #, P.O. Box)*

(City, State, ZIP Code)

5. Date of Birth (Month Day Year)

6. Telephone Number ( ) –

7. Dependents ☐ Spouse ☐ Child ☐ Other_____

ILLNESS BEING CLAIMED

8. Identify Diagnosed Condition(s) Being Claimed		9. Date of Diagnosis Month	Day	Year	FOR DOL USE ONLY	
☐ Cancer	Specify Type					
☐ Beryllium Sensitivity						
☐ Chronic Beryllium Disease						
☐ Chronic Silicosis						
☐ Other Lung Condition	Specify Type					
☐ Renal Disease	Specify Type					

EMPLOYMENT CLASSIFICATION

10. Identify location or type of employment *(Mark any that apply)*:

☐ **Department of Energy Facility**
This is defined as any building, structure or premise in which the activities of federal employees, contractors or subcontractors have been conducted by or on behalf of the Department of Energy.

☐ **Atomic Weapons Facility**
This is defined as a privately-owned facility in which radioactive material has been processed for use by the United States in the manufacture of atomic weapons. (Excludes mining, milling, or transporting uranium ore.)

☐ **Beryllium Vendor**
This is defined as any privately operated entity engaged in producing or processing beryllium for sale or use by the Department of Energy.

☐ **Uranium Worker**
This is defined as employment activity associated with the mining, milling or transportation of uranium ore for use in the manufacture of atomic weapons.

SPECIAL EXPOSURE COHORT

11. Prior to February 1, 1992, did you work at a gaseous diffusion plant in Paducah, Kentucky; Portsmouth, Ohio; or Oak Ridge, Tennessee?
☐ YES If yes, which site(s)_____ ☐ NO

12. Prior to January 7, 1974, did you work at the Long Shot, Milrow, or Cannikin underground nuclear tests on Amchitka Island, Alaska?
☐ YES If yes, which site(s)_____ ☐ NO

13. Are you a member of a group added to the Special Exposure Cohort by the Department of Health and Human Services?
☐ YES List group designation_____ ☐ NO ☐ DON'T KNOW

RADIATION EXPOSURE COMPENSATION ACT AWARD & CIVIL LAWSUIT

14. Have you received an award letter under the Radiation Exposure Compensation Act?
☐ YES If yes, submit a copy of your award letter ☐ NO

15. Have you filed a civil lawsuit regarding your claimed condition(s)?
☐ YES If yes, submit a copy of court documentation ☐ NO

EMPLOYEE DECLARATION

16. Any person who knowingly makes any false statement, misrepresentation, concealment of fact, or any other act of fraud to obtain compensation as provided under the EEOICPA or who knowingly accepts compensation to which that person is not entitled is subject to civil or administrative remedies as well as felony criminal prosecution and may, under appropriate criminal provisions, be punished by a fine or imprisonment or both.

I hereby make a claim for benefits under the Energy Employees Occupational Illness Compensation Program Act and affirm that the information I have provided on this form is true. Furthermore, I authorize any physician or hospital (or any other person, institution, corporation, or government agency) to furnish any desired information to the U.S. Department of Labor, Office of Worker's Compensation Programs.

Claimant Signature_____ Date_____

EE-1
May 2001

BENEFITS UNDER THE ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM ACT

The Energy Employees Occupational Illness Compensation Program Act (EEOICPA) provides for a lump sum payment of $150,000 and medical benefits to covered employees suffering from designated illnesses incurred as a result of their exposure to radiation, beryllium, or silica while in the performance of duty for the Department of Energy and certain of its vendors, contractors and subcontractors. This legislation also provides for payment of compensation to certain survivors of these covered employees, as well as for a $50,000 lump sum payment and medical benefits to individuals, or their survivor(s), who have been found eligible for compensation under the Radiation Exposure Compensation Act (RECA).

INSTRUCTIONS FOR COMPLETING FORM EE-1

Complete all items on the form. If additional space is required to explain or clarify any point, attach a supplemental statement to the form. If the requested information is not submitted, the responsible party should explain the reason for the delay and indicate when the information will be forthcoming. Submit the completed claim form and all other pertinent documentation to the appropriate District Office administering the EEOIPCA in the region where your most recent Energy employer is/was located.

Illness Being Claimed

Item #8 — Identify the diagnosed condition(s) being claimed. If you have a claim for a cancer, unspecified lung condition or renal disease, you must list the particular diagnosis.

Item #9 — List the date a qualified physician first diagnosed your claimed condition(s).

Employment Classification

Item #10 — Check the box for the location and/or the type of work activities that best describes your employment situation. Mark all that apply. The Department of Energy has compiled a list of facilities categorized by location and employment designation. The list is available at the Department of Energy's web page ***http://tis.eh.doe.gov***, or by contacting the OWCP District Office.

Special Exposure Cohort

Items #11–12 — The Act allows for employees who have met particular criteria and have been employed at certain facilities to be designated as members of the Special Exposure Cohort. If you worked at any of the listed locations prior to the dates indicated, mark YES and identify the site name.

Item #13 — The Act permits the Department of Health and Human Services (HHS) to include new groups of employees in the Special Exposure Cohort. If you can identify yourself as a member of a designated group that has been added to the Special Exposure Cohort, mark YES and describe the group in which you belong.

Radiation Exposure Compensation Act Award & Civil Lawsuit

Item #14 — If you have been found entitled to an award under the Radiation Exposure Compensation Act, you may be eligible for additional payment under the EEOICPA. Please indicate whether or not you have received a notice of award under the RECA. If you mark YES, you will need to submit a copy of the award letter.

Item #15 — Indicate whether you have filed a civil lawsuit in regard to your claimed condition. If you mark YES, provide copies of all court documentation.

PRIVACY ACT

In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), you are hereby notified that: (1) The Energy Employees Occupational Illness Compensation Program Act (P.L. 106-398) (EEOICPA) is administered by the Office of Workers' Compensation Programs of the U.S. Department of Labor, which receives and maintains personal information on claimants and their immediate families. (2) Information which the Office has received will be used to determine eligibility for, and the amount of, benefits payable under the EEOICPA, and may be verified through computer matches or other appropriate means. (3) Information may be given to the Federal agencies or private entities which employed the claimant at the time of injury in order to verify statements made, answer questions concerning the status of the claim, verify billing, and to consider other relevant matters. (4) Information may be disclosed to physicians and other health care providers for use in providing treatment or medical rehabilitation, making evaluations for the Office of Workers' Compensation and for other purposes related to the medical management of the claim. (5) Information may be given to Federal, state, and local agencies for law enforcement purposes, to obtain information relevant to a decision under the EEOICPA, to determine whether benefits are being paid properly, including whether prohibited payments have been made, and, where appropriate, to pursue salary/administrative offset and debt collections actions required or permitted by the Debt Collection Act. (6) Failure to disclose all requested information may delay the processing of the claim or the payment of benefits, or may result in an unfavorable decision. This notice applies to all forms requesting information that you might receive from the Office in connection with the processing and adjudication of the claim you filed under the EEOICPA.

PUBLIC BURDEN STATEMENT

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering the data needed, and completing and reviewing the collection of information. If you have any comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, send them to the Office of Workers' Compensation Programs, U.S. Department of Labor, Room S3524, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Do not submit the completed claim form to this address. Completed claims are to be submitted to the appropriate regional District Office of Workers' Compensation Programs. Persons are not required to respond to the information collected on this form unless it displays a currently valid OMB number.

Claim for Survivor Benefits under Energy Employees Occupational Illness Compensation Program Act

U.S. Department of Labor
Employment Standards Administration
Office of Workers' Compensation Programs

Provide all information requested below. **DO NOT FILL IN SHADED AREAS.** Disclosure of your social security number is voluntary. Failure to disclose this number will not result in the denial of any right, benefit or privilege to which you may be entitled.

OMB No.:
Expires:

SURVIVOR INFORMATION

1. Name *(Last, First, Middle Initial)*
2. Social Security Number
3. Date of Birth (Month Day Year)
4. Address *(Street, Apt #, P.O. Box)*
5. Sex ☐ Male ☐ Female
(City, State, ZIP Code)
6. Telephone Number ( ) –
7. What was your relationship to the deceased employee at the time of his/her death? (Spouse, dependent child, grandparent, sibling, etc.)

DECEASED EMPLOYEE INFORMATION

8. Name *(Last, First, Middle Initial)*
9. Social Security Number
10. Sex ☐ Male ☐ Female
11. Date of Birth (Month Day Year)
12. Date of Death (Month Day Year)
13. Was an autopsy performed on the employee? ☐ YES List medical facility _____ ☐ NO
14. Identify Claimed Condition(s) Present at Date of Death
15. Date of Diagnosis (Month Day Year)
FOR DOL USE ONLY

☐ Cancer	Specify Type					
☐ Chronic Beryllium Disease						
☐ Chronic Silicosis						
☐ Other Lung Condition	Specify Type					
☐ Renal Disease	Specify Type					

16. Identify location or type of employment performed by the deceased employee *(Mark any that apply)*:

☐ **Department of Energy Facility**
This is defined as any building, structure or premise in which the activities of federal employees, contractors or subcontractors have been conducted by or on behalf of the Department of Energy.

☐ **Atomic Weapons Facility**
This is defined as a privately-owned facility in which radioactive material has been processed for use by the United States in the manufacture of atomic weapons. (Excludes mining, milling, or transporting uranium ore.)

☐ **Beryllium Vendor**
This is defined as any privately operated entity engaged in producing or processing beryllium for sale or use by the Department of Energy.

☐ **Uranium Worker**
This is defined as employment activity associated with the mining, milling or transportation of uranium ore for use in the manufacture of atomic weapons.

SPECIAL EXPOSURE COHORT

17. Prior to February 1, 1992, did the deceased work at a gaseous diffusion plant in Paducah, Kentucky; Portsmouth, Ohio; or Oak Ridge, Tennessee?
☐ YES If yes, which site(s) _____ ☐ NO

18. Prior to January 7, 1974, did the deceased work at the Long Shot, Milrow, or Cannikin underground nuclear tests on Amchitka Island, Alaska?
☐ YES If yes, which site(s) _____ ☐ NO

19. Was the deceased a member of a group added to the Special Exposure Cohort by the Department of Health and Human Services?
☐ YES List group designation _____ ☐ NO ☐ DON'T KNOW

RADIATION EXPOSURE COMPENSATION ACT AWARD & LAWSUIT

20. Have you or the deceased received an award letter under the Radiation Exposure Compensation Act?
☐ YES If yes, submit a copy of your award letter ☐ NO

21. Did the deceased or you file a civil lawsuit regarding the claimed condition(s)?
☐ YES If yes, submit a copy of court documentation ☐ NO

SURVIVOR DECLARATION

22. Any person who knowingly makes any false statement, misrepresentation, concealment of fact, or any other act of fraud to obtain compensation as provided under the EEOICPA or who knowingly accepts compensation to which that person is not entitled is subject to civil or administrative remedies as well as felony criminal prosecution and may, under appropriate criminal provisions, be punished by a fine or imprisonment or both. I hereby make a claim for benefits under the Energy Employees' Occupational Illness Compensation Program Act and affirm that the information I have provided on this form is true. Furthermore, I authorize any physician or hospital (or any other person, institution, corporation, or government agency) to furnish any desired information to the United States Department of Labor, Office of Workers' Compensation Program.

Claimant Signature _____ Date _____

EE-2
May 2001

BENEFITS FOR SURVIVORS UNDER ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM ACT

The Energy Employees Occupational Illness Compensation Program Act (EEOICPA) provides for a lump sum payment of $150,000 to eligible survivors of a covered employee who at the time of death had a designated illness incurred as a result of exposure to radiation, beryllium, or silica while in the performance of duty for the Department of Energy and certain of its vendors, contractors and subcontractors. This legislation also provides for a lump sum payment of $50,000 to certain survivors of deceased covered employees, who were found eligible for compensation under the Radiation Exposure Compensation Act.

DEFINITION OF SURVIVOR UNDER THE ACT

Entitlement to any lump-sum payment for survivor(s) under the EEOICPA will be determined as of the time of death of the covered employee. In order to be considered an eligible survivor under the EEOICPA, you must be a widow or widower, child, parent, brother, sister, grandparent or grandchild of a deceased covered employee. ***(Attach a copy of marriage license; birth certificate; or adoption papers demonstrating proof of relationship to deceased.)*** This does not include:

a. a child, brother, sister, or grandchild who, at the time of death, was married or 18 years of age (unless incapable of self support); or

b. a parent or grandparent who, at the time of death, was not dependent on the deceased covered employee.

An unmarried child, brother, sister, or grandchild is a survivor if he/she was, at the time of death, enrolled as a full-time student at an accredited college or university and under the age of 23.

INSTRUCTIONS FOR COMPLETING FORM EE-2

Complete all items on the form. If additional space is required to explain or clarify any point, attach a supplemental statement to the form. If the requested information is not submitted, the responsible party should explain the reason for the delay and indicate when the information will be forthcoming. Submit the completed claim form and all other pertinent documentation to the appropriate District Office administering the EEOIPCA in the region where your most recent energy employer is/was located.

Deceased Employee Information

Item # 14 — Identify the condition the deceased employee suffered prior to their death (Attach a copy of the employee's death certificate to the claim form). It is not necessary to establish that the death was caused by the claimed condition. Rather, the evidence must demonstrate a qualified physician diagnosed a covered condition prior to death.

Item #16 — Mark location or type of work activities that best describe the deceased employee's work situation. If more than one of the listed categories applies, indicate such on the form. The Department of Energy has also compiled a list of covered facilities. The list is available at ***http://tis.eh.doe.gov*** or by contacting the Office of Workers' Compensation Programs.

If you are aware of any person who may qualify as a survivor of the deceased, notify the Office of Workers' Compensation in writing.

Special Exposure Cohort

Items #17–18 — The Act allows for employees who have met particular criteria and have been employed at certain facilities to be designated as members of the Special Exposure Cohort. If the deceased employee worked at any of the listed locations prior to the dates indicated, mark YES and identify the site name.

Item #19 — The Act permits the Department of Health and Human Services (HHS) to include new groups of employees in the Special Exposure Cohort. If you can identify the deceased employee as a member of a designated group that has been added to the Special Exposure Cohort, mark YES and describe the group in which he/she belonged.

Radiation Exposure Compensation Act Award & Civil Lawsuit

Item #20 — If you or the deceased have been found entitled to an award under the Radiation Exposure Compensation Act, you may be eligible for additional payment under the EEOICPA. Please indicate whether or not you or the deceased have received a notice of award under the RECA. If you mark YES, you will need to submit a copy of the award letter.

Item #21 — Indicate whether you or the deceased ever filed a civil lawsuit in regards to the claimed condition. If you mark YES, provide copies of all court documentation.

PRIVACY ACT

In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), you are hereby notified that: (1) The Energy Employees Occupational Illness Compensation Program Act (P.L. 106-398) (EEOICPA) is administered by the Office of Workers' Compensation Programs of the U.S. Department of Labor, which receives and maintains personal information on claimants and their immediate families. (2) Information which the Office has will be used to determine eligibility for, and the amount of, benefits payable under the EEOICPA, and may be verified through computer matches or other appropriate means. (3) Information may be given to the Federal agencies or private entities which employed the claimant at the time of injury in order to verify statements made, answer questions concerning the status of the claim, verify billing, and to consider other relevant matters. (4) Information may be disclosed to physicians and other health care providers for use in providing treatment or medical rehabilitation, making evaluations for the Office and for other purposes related to the medical management of the claim. (5) Information may be given to Federal, state, and local agencies for law enforcement purposes, to obtain information relevant to a decision under the EEOICPA, to determine whether benefits are being paid properly, including whether prohibited payments have been made, and, where appropriate, to pursue salary/administrative offset and debt collections actions required or permitted by the Debt Collection Act. (6) Failure to disclose all requested information may delay the processing of the claim or the payment of benefits, or may result in an unfavorable decision. This notice applies to all forms requesting information that you might receive from the Office in connection with the processing and adjudication of the claim you filed under the EEOICPA.

PUBLIC BURDEN STATEMENT

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering data needed, and completing and reviewing the collection of information. If you have any comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, send them to the Office of Workers' Compensation Programs, U.S. Department of Labor, Room S3524, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Do not submit the completed claim to this address. Completed claims are to be submitted to the appropriate regional District Office of Workers' Compensation Programs. Persons are not required to respond to this information collection unless it displays a currently valid OMB number.

Employment History for Claim Under Energy Employees Occupational Illness Compensation Program Act

U.S. Department of Labor
Employment Standards Administration
Office of Workers Compensation Programs

Disclosure of social security number is voluntary. Failure to disclose this number will not result in the denial of any right, benefit or privilege to which you may be entitled. **DO NOT FILL IN SHADED AREAS**	OMB No.: Expires:

EMPLOYEE INFORMATION

Print Name Last First M.I.	Social Security Number
Former Name (i.e. maiden name/legal name change/other) Last First M.I.	Employee Number(if known)

In the following section, list the complete employment history of the employee named above in chronological order. Begin with the most recent period of employment. If you require additional space to explain or clarify any point, attach a supplemental statement to this form.

EMPLOYER 1

Dates of Employment	Start Date / /	End Date / /

Employer (Name/Address/Location where work was performed)

Position Title & Description of Work Performed

Describe all factor(s) believed to have contributed to the development of the claimed illness. (N/A for none)

Was a dosimetry badge worn while employed?

☐ YES Dosimetry Badge Number _____ ☐ NO

EMPLOYER 2

Dates of Employment	Start Date / /	End Date / /

Employer (Name/Address/Location where work was performed)

Position Title & Description of Work Performed

Describe all factor(s) believed to have contributed to the development of the claimed illness. (N/A for none)

Was a dosimetry badge worn while employed?

☐ YES Dosimetry Badge Number _____ ☐ NO

Form EE-3
May 2001

EMPLOYER 3

Dates of Employment	Start Date / /	End Date / /

Employer (Name/Address/Location where work was performed)

Position Title & Description of Work Performed

Describe all factor(s) believed to have contributed to the development of the claimed illness. (N/A for none)

Was a dosimetry badge worn while employed?

☐ YES Dosimetry Badge Number _____ ☐ NO

EMPLOYER 4

Dates of Employment	Start Date / /	End Date / /

Employer (Name/Address/Location where work was performed)

Position Title & Description of Work Performed

Describe all factor(s) believed to have contributed to the development of the claimed illness. (N/A for none)

Was a dosimetry badge worn while employed?

☐ YES Dosimetry Badge Number _____ ☐ NO

DECLARATION OF PERSON COMPLETING FORM

Any person who knowingly makes any false statement, misrepresentation, concealment of fact or any other act of fraud to obtain compensation as provided under the EEOICPA or who knowingly accepts compensation to which that person is not entitled is subject to civil or administrative remedies as well as felony criminal prosecution and may, under appropriate criminal provisions, be punished by a fine or imprisonment or both.

Print Name _____

Street Address _____

City/State/ Zip _____ Phone _____

I affirm that the employment history provided on this form is accurate and true.

Signature _____ Date _____

Form EE-3
May 2001

INSTRUCTIONS FOR COMPLETING FORM EE-3

This form is used to gather information regarding an Energy employees work history. If additional space is required, attach a supplemental statement to this form. **YOU MAY USE AS MANY COPIES OF THE EE-3 FORM AS NECESSARY IN ORDER TO PROVIDE A COMPLETE EMPLOYMENT HISTORY FOR THE EMPLOYEE.**

Dates of Employment

Beginning with the most recent period of employment and working backward, list the the period of employment for each job held.

Employer (Name/Address/Location where work was performed)

Identify the name, address or any other type of descriptive information regarding the employer for each period claimed. Contractor and subcontractors should list the name of the company that held contract with the United States government. In addition, identify the location where employment activities were conducted. This can include the name of the facility, site, laboratory, building, mine etc.

Position Title & Description of Work Performed

Identify the job title and the type of work activities performed during the listed period of employment.

Describe All Factors(s) Believed to have Contributed to the Development of the Claimed Illness.

Provide a brief statement explaining the date and circumstance of all factors believed to have contributed to the claimed illness.

Was a Dosimetry Badge Worn While Employed?

Indicate whether or not the employer required a dosimetry badge to be worn. If yes, provide the dosimetry badge identification number.

PRIVACY ACT

In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), you are hereby notified that: (1) The Energy Employees Occupational Illness Compensation Program Act (P.L. 106-398) (EEOICPA) is administered by the Office of Workers' Compensation Programs of the U.S. Department of Labor, which receives and maintains personal information on claimants and their immediate families. (2) Information which the Office has will be used to determine eligibility for, and the amount of, benefits payable under the EEOICPA, and may be verified through computer matches or other appropriate means. (3) Information may be given to the Federal agencies or private entities which employed the claimant at the time of injury in order to verify statements made, answer questions concerning the status of the claim, verify billing, and to consider other relevant matters. (4) Information may be disclosed to physicians and other health care providers for use in providing treatment or medical rehabilitation, making evaluations for the Office and for other purposes related to the medical management of the claim. (5) Information may be given to Federal, state, and local agencies for law enforcement purposes, to obtain information relevant to a decision under the EEOICPA, to determine whether benefits are being paid properly, including whether prohibited payments have been made, and, where appropriate, to pursue salary/administrative offset and debt collections actions required or permitted by the Debt Collection Act. (6) Failure to disclose all requested information may delay the processing of the claim or the payment of benefits, or may result in an unfavorable decision. This notice applies to all forms requesting information that you might receive from the Office in connection with the processing and adjudication of the claim you filed under the EEOICPA.

PUBLIC BURDEN STATEMENT

Public reporting burden for this collection of information is estimated to average 1 hour per response, including time for reviewing instructions, searching existing data sources, gathering data needed, and completing and reviewing the collection of information. If you have any comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, sent them to the Office of Workers' Compensation Programs, U.S. Department of Labor, Room S3524, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Do not submit the completed claim to this address. Completed claims are to be submitted to the appropriate regional District Office of Workers' Compensation Programs. Persons are not required to respond to this information collection unless it displays a currently valid OMB number.

Employment History Affidavit for Claim Under the Energy Employees Occupational Illness Compensation Program Act

U.S. Department of Labor
Employment Standards Administration
Office of Workers Compensation Programs

Note: This form is used to affirm the employment history of a living or deceased individual who incurred a designated illness as a result of their exposure to radiation, beryllium, or silica while in the performance of duty for the Department of Energy and certain of its vendors, contractors, and subcontractors. PROVIDE RESPONSE IN SHADED AREAS. Disclosure of a social security number is voluntary. Failure to disclose this number will not result in the denial of any right, benefit or privilege to which you may be entitled.	OMB No.: Expires:

1. NAME OF THE PERSON COMPLETING AFFIDAVIT:	
a.) Print Full Name	
b.) Street Address	
c.) City, State, Zip Code	

2. AFFIRMING THE EMPLOYMENT HISTORY OF THE FOLLOWING PERSON:	
a.) Print Full Name	
b.) Maiden/Former Name	
c.) Social Security Number (Optional)	|_|_|_|_|_|_|_|_|_|

3. RELATIONSHIP BETWEEN THE TWO INDIVIDUALS NAMED ABOVE:

☐ Spouse ☐ Son/Daughter ☐ Parent ☐ Grandparent

☐ Friend ☐ Work Associate ☐ Other

4. EMPLOYMENT HISTORY OF THE PERSON NAMED IN ITEM 2a:

In chronological order, starting with the most recent period of employment, describe your knowledge of the employment history of the person named in item 2a. Provide as much identifying information as possible concerning the name and location of the employer.

EMPLOYER 1		
Dates of Employment	Start Date / /	End Date / /
Employer name and work site location		
Describe the type of work performed		
Explain how you know the person named in 2a worked for this employer		

EMPLOYER 2		
Dates of Employment	Start Date / /	End Date / /
Employer name and work site location		
Describe the type of work performed		
Explain how you know the person named in 2a worked for this employer		
EMPLOYER 3		
Dates of Employment	Start Date / /	End Date / /
Employer name and work site location		
Describe the type of work performed		
Explain how you know the person named in 2a worked for this employer		
EMPLOYER 4		
Dates of Employment	Start Date / /	End Date / /
Employer name and work site location		
Describe the type of work performed		
Explain how you know the person named in 2a worked for this employer		

5. Any person who knowingly makes any false statement, misrepresentation, concealment of fact or any other act of fraud to obtain compensation as provided under the EEOICPA or who knowingly accepts compensation to which that person is not entitled is subject to civil or administrative remedies as well as felony criminal prosecution and may, under appropriate criminal provisions, be punished by a fine or imprisonment or both. I affirm that the information provided on this form is accurate and true.

Signature _____ Date _____

Form EE-4
May 2001

FORM EE-4

This form is used to affirm the employment history of a living or deceased energy employee. It may be completed by anyone who has knowledge of the employment activities of an energy employee. Use as many EE-4 forms as needed. If you require additional space to provide comments, attach a signed supplemental statement.

PRIVACY ACT

In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), you are hereby notified that: (1) The Energy Employees Occupational Illness Compensation Program Act (P.L. 106-398) (EEOICPA) is administered by the Office of Workers' Compensation Programs of the U.S. Department of Labor, which receives and maintains personal information on claimants and their immediate families. (2) Information which the Office has will be used to determine eligibility for, and the amount of, benefits payable under the EEOICPA, and may be verified through computer matches or other appropriate means. (3) Information may be given to the Federal agencies or private entities which employed the claimant at the time of injury in order to verify statements made, answer questions concerning the status of the claim, verify billing, and to consider other relevant matters. (4) Information may be disclosed to physicians and other health care providers for use in providing treatment or medical rehabilitation, making evaluations for the Office and for other purposes related to the medical management of the claim. (5) Information may be given to Federal, state, and local agencies for law enforcement purposes, to obtain information relevant to a decision under the EEOICPA, to determine whether benefits are being paid properly, including whether prohibited payments have been made, and, where appropriate, to pursue salary/administrative offset and debt collections actions required or permitted by the Debt Collection Act. (6) Failure to disclose all requested information may delay the processing of the claim or the payment of benefits, or may result in an unfavorable decision. This notice applies to all forms requesting information that you might receive from the Office in connection with the processing and adjudication of the claim you filed under the EEOICPA.

PUBLIC BURDEN STATEMENT

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering data needed, and completing and reviewing the collection of information. If you have any comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, sent them to the Office of Workers' Compensation Programs, U.S. Department of Labor, Room S3524, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Do not submit the completed claim to this address. Completed claims are to be submitted to the appropriate regional District Office of Workers' Compensation Programs.

Medical Requirements under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA)

U.S. Department of Labor
Employment Standards Administration
Office of Workers' Compensation Programs

OMB No.:
Expires:

The information in this document is intended to inform an employee, survivor or physician of the medical evidence necessary to establish a diagnosis of the following conditions under the EEOICPA: **Beryllium Sensitivity, Chronic Beryllium Disease, Chronic Silicosis and Cancer**. Medical evidence may include narrative reports, physician notes, diagnostic test results, imaging studies, laboratory work-ups, pathology reports, operative reports, pulmonary function assessments, autopsy evaluations, death certificates, etc. The completed medical report package should be submitted to the appropriate District Office. Decisions regarding coverage under the EEOICPA are contingent on the submission of appropriate medical and factual evidence. This form provides information regarding medical requirements only. Maintain a copy of all documents for your records.

GENERAL REQUIREMENTS

Any claim filed under the EEOICPA has to include a medical report(s) providing:

- A history of the illness or condition
- A physical examination and its findings
- The clinical laboratory tests performed and discussion of the results
- A diagnosis (ICD-9 coded, if possible) and the date when it was first documented

REQUIREMENTS FOR A DIAGNOSIS OF BERYLLIUM SENSITIVITY

- Abnormal Beryllium Lymphocyte Proliferation Test (LPT) that has been performed on the blood or lung lavage cells

REQUIREMENTS FOR A DIAGNOSIS OF CHRONIC BERYLLIUM DISEASE

If the initial date of diagnosis was made **on or after January 1, 1993**, medical documentation must include an Abnormal Beryllium Lymphocyte Proliferation Test (LPT) and one or more of the following:

- Lung biopsy showing a process consistent with chronic beryllium disease
- A computerized axial tomography scan showing changes consistent with chronic beryllium disease
- A pulmonary function study or exercise tolerance test showing pulmonary deficits consistent with chronic beryllium disease

If the initial date of diagnois was made **before January 1, 1993**, medical documenation must include at least three or more of the following:

- Characteristic chest radiograph or computed tomography denoting abnormalities
- A restrictive or obstructive lung physiology test or diffusion lung capacity defect
- Lung pathology consistent with chronic beryllium disease
- Clinical course consistent with chronic respiratory disease disorder
- Immunologic tests showing beryllium sensitivity (skin patch test or beryllium test)

REQUIREMENTS FOR A DIAGNOSIS OF CHRONIC SILICOSIS

One or more of the following:

- A chest radiograph, interpreted by a National Institute for Occupational Safety and Health certified B reader, confirming the existence of pneumoconiosis with a 1/1 ILO category or higher
- Results from a computer-assisted tomograph or other imaging technique consistent with silicosis
- A lung biopsy consistent with silicosis

REQUIREMENTS FOR A DIAGNOSIS OF CANCER

- The pathology report(s) (e.g. tissue biopsy or blood test) that forms the basis for the diagnosis of cancer and identifies the malignant neoplasm present
- A narrative report that addresses whether there are metastases present and the affected anatomic sites, as well as the presence of any cancer-related syndromes or other complications

Date

Telephone number

File Number:
Claimant:
Social Security Number:

JOHN Q. CLAIMANT
1111 MAIN STREET
OAK RIDGE, TN 44444

Dear Mr. Claimant:

The information requested in the attached enclosure is required in connection with your claim for benefits under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA), Pub. L. 106-398. This information will be used to decide if you are entitled to receive these benefits, and if so, the level of benefits you may receive.

You must completely answer all questions and return the enclosure within 30 days of the date of this letter. Otherwise, OWCP will not be able to process your claim for benefits under the EEOICPA. Pub. L. 100-503 provides that the statements on the enclosure and other information in your claim file may be verified through computer matches. OWCP may also request that you submit any factual evidence it deems necessary to support your statements.

READ ALL INSTRUCTIONS CAREFULLY BEFORE FILLING OUT THE ENCLOSURE. YOU MUST ANSWER ALL OF THE QUESTIONS. IF THE QUESTION DOES NOT APPLY TO YOUR CLAIM, STATE "NOT APPLICABLE (N/A)" OR "NONE."

If you need more space to fully answer any of the questions, use another sheet of paper with your name and claim number at the top. Sign and date each extra sheet.

WARNING

A FALSE OR EVASIVE ANSWER TO ANY QUESTION, OR THE OMISSION OF AN ANSWER, MAY BE GROUNDS FOR FORFEITING YOUR BENEFITS AND SUBJECT YOU TO CIVIL LIABILITY. A FRAUDULENT ANSWER MAY RESULT IN CRIMINAL PROSECUTION. ALL STATEMENTS ARE SUBJECT TO INVESTIGATION FOR VERIFICATION.

When you have completed the enclosure, **sign it and return it to the address shown at the top of this letter**. Your signature certifies that you have supplied all information requested by the enclosure. If you have any questions about completing the enclosure, call or write to the district office.

Sincerely,

****

CLAIMS EXAMINER

Enclosure: EN-15

NOTICE TO RECIPIENT

Public reporting burden for this collection of information is estimated to average 40 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, OWCP, Room S3524, 200 Constitution Avenue, NW, Washington, DC 20210. DO NOT SEND THE COMPLETED FORM TO THIS ADDRESS. Persons are not required to complete this form unless it displays a currently valid OMB number.

File Number:
Claimant:

PART A -- TORT SUITS FILED AGAINST BERYLLIUM VENDORS OR ATOMIC WEAPONS EMPLOYERS

1. Have you filed a tort suit (other than an administrative or judicial proceeding for worker's compensation) against a beryllium vendor or atomic weapons employer in connection with either an occupational illness or a consequential injury for which you would be eligible to receive compensation under the EEOICPA? Yes or No: _____

2. If Yes, state:

Date of filing:_____
Party or parties involved:_____
Date tort suit was dismissed:_____

List any other tort suits on an extra sheet.

PART B -- THIRD PARTY SETTLEMENTS

1. Have you received any settlement or award from a claim or suit (other than a claim for worker's compensation) against a third party (other than a beryllium vendor or atomic weapons employer listed in Part A above) in connection with either an occupational illness or a consequential injury for which you would be eligible to receive compensation under the EEOICPA? Yes or No: _____

2. If Yes, state:

Date of judgment or settlement:_____
Party or parties involved:_____
Type of suit or settlement:_____
Amount of judgment or settlement:_____

List any other third party settlements on an extra sheet.

PART C -- SURVIVORS OF DECEASED EMPLOYEES

1. Are you claiming compensation under the EEOICPA as a survivor of a deceased employee who sustained a covered occupational illness? Yes or No:_____

2. If Yes, state:

If widow or widower, date of marriage to deceased employee:_____
If child, sibling or grandchild of deceased employee, date of birth:_____
If parent or grandparent of deceased employee, were you dependent on the deceased employee at the time of his or her death? State Yes or No:_____

3. Do you know of any other persons who may also be eligible to receive compensation under the EEOICPA as a survivor of the deceased employee upon whom your claim is based? Yes or No:_____

4. If Yes, state:

Name of other survivor:_____
Relationship of other survivor to deceased employee:_____
Address and/or telephone number of other survivor:_____

List any other survivors on an extra sheet.

PART D -- FRAUD CHARGES

1. Have you either pled guilty to or been convicted on any charges of having committed fraud in connection with an application for or receipt of benefits under the EEOICPA or any other federal or state worker's compensation law? Yes or No: _____

2. If Yes, state:

Date of conviction or guilty plea:_____
Jurisdiction where fraud charges were brought:_____

PART E -- CORRECTIONS

If the name, address, file number, or Social Security number (SSN) shown at the top of the first page of the accompanying letter is incorrect, provide the correct information in the space provided below. (Do not complete if the information is correct).

Name: _____ File Number: _____
Address: _____ SSN: _____

PART F -- CERTIFICATION

I know that anyone who fraudulently conceals or fails to report information that would have an effect on benefits, or who makes a false statement or misrepresentation of a material fact in claiming a payment or benefit under the Energy Employees Occupational Illness Compensation Program Act may be subject to criminal prosecution, from which a fine and/or imprisonment may result.

I understand that I must immediately report to OWCP any third party settlement I receive, any tort suit I file against a beryllium vendor or atomic weapons employer, any change in the status of a survivor, and any conviction for fraud against this program or any other federal or state workers' compensation law.

I certify that all the statements made in response to questions on this enclosure are true, complete and correct to the best of my knowledge and belief. I have placed "Not Applicable (N/A)" or "None" next to those questions that do not apply to me or my claim.

Signature	Date
Street Address	Telephone
City, State and Zip Code	

Acceptance of Payment Under the Energy Employees Occupational Illness Compensation Program Act

U.S. Department of Labor
Employment Standards Administration
Office of Workers' Compensation Programs

File Number:
Claimant Name:
Social Security Number:

JOHN Q. CLAIMANT
1111 MAIN STREET
OAK RIDGE, TN 44444

Dear Mr. Claimant:

I am pleased to inform you that your claim for benefits under the Energy Employees Occupational Illness Compensation Program Act has been approved in the amount of:

$

Enclosed is the EN-20 Acceptance of Payment form (EN-20) which you or your legal guardian must complete, sign and return before OWCP can send the compensation payment to you.

You must sign and return the Acceptance of Payment form to OWCP within 60 days from the date of this letter. **Failure to return the signed form within this period may be deemed to be a rejection of the payment.** If you have any questions about completing the enclosure, call your district office.

Sincerely,

CLAIMS EXAMINER

Enclosures: EN-20

NOTICE TO RECIPIENT

Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, OWCP, Room S3229, 200 Constitution Avenue, NW, Washington, DC 20210. DO NOT SEND THE COMPLETED FORM TO THIS ADDRESS. Persons are not required to complete this form unless it displays a currently valid OMB number.

OMB No. Expiration Date EE-20

Directions: Provide all of the information requested below. If you choose to accept the authorized payment, you must mail this form to OWCP within 60 days from the date of the letter.

AUTHORIZED PAYMENT

$

DIRECT DEPOSIT INFORMATION

1. Name Financial Institution		
2. Street Address		
3. City & Zip Code		
4. Phone Number		
6. Routing Number or ID#		
7. Account Number		
8. Type of Account	☐ **CHECKING**	☐ **SAVINGS**

CORRECTIONS

If the name, address, file number, or Social Security number (SSN) shown at the top of the first page of the accompanying letter is incorrect, provide the correct information in the space provided below. (Do not complete if already correct).

Name _____ SSN _____

Street Address _____

City, State and Zip Code _____

CERTIFICATION

I hereby certify that I have reported to OWCP any third party settlement I have received, any tort suit I have filed against a beryllium vendor or an atomic weapons employer, any information I have regarding survivors (if applicable), and any conviction for fraud against this program or any other federal or state workers' compensation law.

I understand that my acceptance of this compensation payment will be in full satisfaction of all claims I have against the United States, a Department of Energy contractor or subcontractor, a beryllium vendor, an atomic weapons employer, or any person with respect to that person's performance of a contract with the United States, arising out of an occupational illness covered by the EEOICPA.

Print Name _____

Signature _____ Date _____

Street Address _____ Current Telephone Number _____

City, State and Zip Code _____

EN-20

Claim for Medical Reimbursement Under Energy Employees Occupational Illness Compensation Program Act

U.S. Department of Labor
Employment Standards Administration
Office of Workers Compensation Programs

Provide all information requested below. **DO NOT FILL IN SHADED AREAS.** Read the attached information in order to ensure the submission of all required documentation. Maintain a copy of all documentation for your records.

OMB No.:
Expires:

PERSONAL INFORMATION

Name

Last First M.I.

EEOICPA Case File Number

Address

Street/P.O. Box/Apt No.

City State Zip Code

Telephone Number

( )

FOR DOL USE ONLY

PROVIDER INFORMATION

Name of Doctor's Office, Hospital, Pharmacy or Medical Supply Company where expense was incurred. (A separate EE-915 must be filed for each provider)

Description of Charge (Medical appointment, name of prescription drug, description of medical product/ supply)	Date of Service (MM, DD, YY)		Amount Paid by Claimant	Have you included Proof of Payment for each item?	
	From	To		YES	NO
				☐	☐
				☐	☐
				☐	☐
				☐	☐
				☐	☐
				☐	☐
				☐	☐
				☐	☐

Total Reimbursement
$

I certify that the information above is correct and that the reimbursement requested is for expenses paid by me for the treatment of my covered illness or disease. I am aware that any person who knowingly makes any false statement or misrepresentation to obtain compensation under the EEOICPA is subject to civil penalties and/or criminal prosecution.

I authorize any provider named above to release information to the US Department of Labor, OWCP if necessary for the proper adjudication of this claim.

Signature _____ Date _____

Form EE-915
May 2001

CLAIM FOR MEDICAL REIMBURSEMENT

- Under EEOICPA, you are eligible to seek reimbursement for out of pocket medical expenses pertaining to the treatment of an accepted covered illness or disease. The EE-915 form can be used to seek reimbursement for expenses in regard to medical treatment, prescription medication and medical supplies.
- Please submit a separate reimbursement claim for each provider where an out of pocket expense was incurred.
- Please print clearly and legibly. Reference your EEOICPA claim file number on all documentation submitted to the District Office. Maintain a copy of the completed EE-915 form and supporting documentation for your records.

DOCUMENTATION REQUIRED FOR MEDICAL REIMBURSEMENT

Prescription Medication

1. Completed EE-915
2. A Universal Health Claim form (NCPDP Form 79-1A) or equivalent, which must be attached to the EE-915 and must include the following information:
   a. Name, address and telephone number of pharmacy
   b. Tax identification number for pharmacy
   c. Name of doctor issuing prescription
   d. Name of medication
   e. Date of purchase
   f. Eleven Digit National Drug Code (NDC#)
   g. New prescription or refill number
   h. Quantity of medication (e.g. # of pills or ml/cc)
   i. Amount paid by employee per medication
3. Proof of payment indicating that the employee or authorized payee rendered payment for the claimed charges (Proof of payment can include cash receipt, cancelled check or credit card slip)

Medical Expense for Treatment of Accepted EEOICPA Condition (Other than prescription medication)

1. Completed EE-915
2. Physicians and other health care providers (i.e. physical therapists) must complete form HCFA 1500. Hospitals and other facilities, such as ambulatory surgical centers, skilled nursing facilities, etc. must submit their bills on Form UB 92. Every form must be completed in its entirety in the same manner as bills submitted by the provider directly to the EEOICPA. The amount paid by the claimant must be indicated. The HCFA-1500 or UB-92 must be attached to this form. It is the responsibility of the person submitting a claim for reimbursement to obtain a completed HCFA-1500 or UB-92 from the provider rendering service. *Without a fully completed HCFA-1500 or UB-92, the OWCP is not able to process a reimbursement.*
3. Proof of payment indicating that the employee or authorized payee rendered payment for the claimed charges (Proof of payment can include cash receipt, cancelled check or credit card slip)

Travel

Do not use form EE-915 to submit a claim for travel reimbursement. Claims for travel reimbursement should be submitted on SF-1012, "Travel Voucher."

Public Burden Statement

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gather and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding the burden estimate or any other aspect to this collection of information, including suggestions for reducing this burden, sent them to the Office of Workers' Compensation Programs, U.S. Department of Labor, Room S3524, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Do not submit the completed claim form to this address. Completed claims are to be submitted to the appropriate regional District Office of Workers' Compensation Programs. Persons are not required to respond to this information collection unless it displays a currently valid OMB number.

Form EE-915
May 2001

[FR Doc. 01–13113 Filed 5–24–01; 8:45 am]
BILLING CODE 4510–CH–C

Federal Register

Friday,
May 25, 2001

Part III

The President

Notice of May 24, 2001—Continuation of Emergency With Respect to the Federal Republic of Yugoslavia (Serbia and Montenegro) the Bosnian Serbs, and Kosovo

Federal Register
Vol. 66, No. 102
Friday, May 25, 2001

Presidential Documents

Title 3—

The President

Notice of May 24, 2001

Continuation of Emergency With Respect to the Federal Republic of Yugoslavia (Serbia and Montenegro) the Bosnian Serbs, and Kosovo

In accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared on May 30, 1992, with respect to the Federal Republic of Yugoslavia (Serbia and Montenegro) (the ''FRY (S&M)''), as expanded on October 25, 1994, in response to the actions and policies of the Bosnian Serbs. In addition, I am continuing for 1 year the national emergency declared on June 9, 1998, with respect to the FRY (S&M)'s policies and actions in Kosovo. This notice shall be published in the **Federal Register** and transmitted to the Congress.

On May 30, 1992, by Executive Order 12808, President Bush declared a national emergency to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the actions and policies of the Governments of Serbia and Montenegro, blocking all property and interests in property of those Governments. President Bush took additional measures to prohibit trade and other transactions with the FRY (S&M) by Executive Orders 12810 and 12831, issued on June 5, 1992, and January 15, 1993, respectively, and on April 25, 1993, President Clinton issued Executive Order 12846 imposing additional measures.

On October 25, 1994, President Clinton expanded the scope of the national emergency by issuing Executive Order 12934 to address the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States posed by the actions and policies of the Bosnian Serb forces and the authorities in the territory that they controlled within Bosnia and Herzegovina.

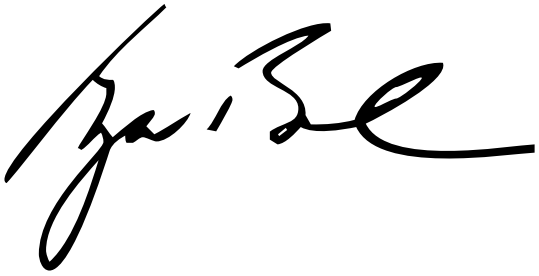
On December 27, 1995, President Clinton issued Presidential Determination 96–7, directing the Secretary of the Treasury, *inter alia*, to suspend the application of sanctions imposed on the FRY (S&M) pursuant to the above-referenced Executive Orders and to continue to block property previously blocked until provision is made to address claims or encumbrances, including the claims of the other successor states of the former Yugoslavia. This sanctions relief, in conformity with United Nations Security Council Resolution 1022 of November 22, 1995 (hereinafter the ''Resolution''), was an essential factor motivating the FRY (S&M)'s acceptance of the General Framework Agreement for Peace in Bosnia and Herzegovina initialed by the parties in Dayton on November 21, 1995, and signed in Paris on December 14, 1995 (hereinafter the ''Peace Agreement''). The sanctions imposed on the FRY (S&M) were accordingly suspended prospectively, effective January 16, 1996. Sanctions imposed on the Bosnian Serb forces and authorities and on the territory that they controlled within Bosnia and Herzegovina were subsequently suspended prospectively, effective May 10, 1996, also in conformity with the Peace Agreement and the Resolution. Sanctions against both the FRY (S&M) and the Bosnian Serbs were subsequently terminated by United Nations Security Council Resolution 1074 of October 1, 1996. This termination, however, did not end the requirement of the Resolution that those blocked funds and assets that are subject to claims and encumbrances remain blocked, until unblocked in accordance with applicable law.

Until the status of all remaining blocked property is resolved, the Peace Agreement implemented, and the terms of the Resolution met, the national emergency declared on May 30, 1992, as expanded in scope on October 25, 1994, and the measures adopted pursuant thereto to deal with that emergency, must continue beyond May 30, 2001.

On June 9, 1998, by Executive Order 13088, President Clinton found that the actions and policies of the FRY (S&M) and the Republic of Serbia with respect to Kosovo, by promoting ethnic conflict and human suffering, threatened to destabilize countries in the region and to disrupt progress in Bosnia and Herzegovina in implementing the Peace Agreement, constituted an unusual and extraordinary threat to the national security and foreign policy of the United States. President Clinton therefore declared a national emergency to deal with that threat. On April 30, 1999, President Clinton issued Executive Order 13121 to take additional steps with respect to the continuing human rights and humanitarian crisis in Kosovo and the national emergency declared with respect to Kosovo.

On January 17, 2001, President Clinton issued Executive Order 13192 in view of the peaceful democratic transition begun in the FRY (S&M); the continuing need to promote full implementation of United Nations Security Council Resolution 827 of May 25, 1993, and subsequent resolutions calling for all states to cooperate fully with the International Criminal Tribunal for the former Yugoslavia (ICTY); the illegitimate control over FRY (S&M) political institutions and economic resources or enterprises exercised by former President Slobodan Milosevic, his close associates and other persons, and those individuals' capacity to repress democracy or perpetrate or promote further human rights abuses; and the continuing threat to regional stability and implementation of the Peace Agreement. Executive Order 13192 amends Executive Order 13088 to lift and modify, with respect to future transactions, most of the economic sanctions imposed against the FRY (S&M). At the same time, Executive Order 13192 imposes restrictions on transactions with certain persons described in section 1(a) of the order, namely Slobodan Milosevic, his close associates and supporters and persons under open indictment for war crimes by the ICTY. The Executive Order also provides for the continued blocking of property or interests in property blocked prior to the order's effective date due to the need to address claims or encumbrances involving such property.

Because the crisis with respect to the situation in Kosovo and with respect to Slobodan Milosevic, his close associates and supporters and persons under open indictment for war crimes by ICTY has not been resolved, and because the status of all previously blocked property has yet to be resolved, I have determined that the national emergency declared on June 9, 1998, and the measures adopted pursuant thereto to deal with that emergency, must continue beyond June 9, 2001.



THE WHITE HOUSE,
May 24, 2001.

[FR Doc. 01–13508
Filed 05–24–01; 12:18 pm]
Billing code 3195–01–P

Reader Aids

Federal Register

Vol. 66, No. 102

Friday, May 25, 2001

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At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 256/P.L. 107–8

To extend for 11 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted. (May 11, 2001; 115 Stat. 10)

Last List April 13, 2001

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